HOUSE OF REPRESENTATIVES—*Thursday, March 26, 1998*

The House met at 10 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We remember with gratitude and thanksgiving the life and work of our colleague, STEVE SCHIFF, and we recall his life with a deep and lasting appreciation. We pray that your blessing, O God, would be with his family and upon all those who loved him and who received his love and his grace.

We remember the great traits that he brought to his responsibilities as a Member of this body and we are aware how this institution was ennobled by his integrity and his honesty. He was a friend to so many and his ideas and counsel made a difference for good in the history of our Nation. For his wisdom and sound judgment, for the dignity and intellect that he carried with him, for his commitment to the people he represented and for the love of family that he showed, we offer our thanks and praise.

May your peace, O God, that passes all human understanding, be with his family and with each of us now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Oregon (Ms. FURSE) come forward and lead the House in the Pledge of Allegiance.

Ms. Furse led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 87. Concurrent resolution to correct the enrollment of S. 419.

QUESTION OF PERSONAL PRIVILEGE

Mr. SHUSTER. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER pro tempore (Mr. CALVERT). Based on the Chair's examination of press accounts referring to the gentleman from Pennsylvania (Mr. SHUSTER) which he has furnished to the Chair, the gentleman is recognized for a question of personal privilege. Under rule IX, the gentleman is recognized for 1 hour.

Mr. SHUSTER. Mr. Speaker, many years ago, Joseph McCarthy in Wheeling, West Virginia stood up and waved papers and said he had the names of 57 Communists in government. Well, he got lots of headlines but, of course, he was eventually proved to be a liar. I am reminded of that event, although I certainly make no such charge here today.

Mr. Speaker, three of our colleagues have made numerous statements in the media that we have been, quote, "buying votes," to get them to support our BESTEA transportation legislation in exchange for projects which we have given them. Indeed, conversely, that we have been threatening Members that if they did not vote with us, they would not get the projects.

Let me make this very clear. I challenge these Members to name one person, one person whom I went to and said they will get a project in exchange for their vote. I challenge them to name one person who I threatened that they not get a project if they voted against us.

Indeed, if we look back at the battle we had here last year on the budget resolution where we had our transportation amendment, I urge my colleagues to go look at Members who voted against us and then look at the projects they are receiving today. This is simply a blatant falsehood.

Now, no doubt many Members support our legislation because it is important to their district, because it is important to America, because they are getting projects that they have requested and which have been vetted through our 14-point requirement.

It seems that in life sometimes there are those who, when one takes a different view from their view, they must somehow ascribe some base motivation. They simply cannot believe that because someone disagrees with them, that another's motives can be as pure as theirs. Indeed, sometimes it seems as though the smaller the minority they represent, the more incensed they become, because they view themselves as more pure, more righteous, more sanctimonious than the larger majority of us who are mere mortals. But I do not ascribe any of these motives to our colleagues. I prefer to believe that they simply are misinformed.

Mr. Speaker, the supreme irony, the supreme irony is that the three individuals who have been attacking us, attacking our motives, attacking our integrity, have submitted projects to us for their own congressional districts.

Mr. Speaker, I yield to the distinguished gentleman from Minnesota (Mr. OBERSTAR), ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. SHUSTER) for yielding.

Mr. Speaker, I join in the gentleman's indignation, to put it mildly, over these attacks that are totally unjustified, unfounded, and inappropriate for Members of this body to make.

First of all, the projects in question have gone through a very thorough and careful vetting process according to a 14-point outline that the committee fashioned, which includes a requirement that the project be on the State's priority or State's future project development list. The points that are included in the review of projects are all the points that States use to measure validity of projects that their transportation departments will fund.

After reviewing all of these projects and ensuring that they meet standards accepted by States and that these are projects necessary in a Member's district, we accept the Member's judgment as to what is necessary for his or her district, and those projects are included in this package, as was done in 1991 in the previous transportation bill.

Mr. Speaker, I could understand Members disagreeing with the process, but I do not approve, I am offended by the use of language and by the accusations made. The gentleman from Pennsylvania has been a vigorous advocate for transportation since before he was elected to Congress in 1972 and since taking his place on the then-Committee on Public Works and now-Committee on Transportation and Infrastructure. Under his chairmanship, he has waged a nationwide campaign for increased investment in the Nation's portfolio of bridges, highways, buses, transit systems, but above all, its safety. He is a champion of safety.

The gentleman's drive to increase spending out of the highway trust fund, tax dollars that have been collected at the pump but not paid into projects for

which driving America has already been taxed, is clear and well known and widely respected, open and clear for everyone to review.

So when the gentleman from Pennsylvania or I, together on a bipartisan basis, present our program to our respective caucuses and to this body and ask for their support, we do so very clearly, very openly, without any hidden agenda. And for Members then to say that they have been somehow browbeaten, whipped into line, or threatened is totally inappropriate and totally untrue.

As a strong and vigorous advocate for his viewpoint, I respect the gentleman from Pennsylvania and I respect those who take a differing viewpoint. They are entitled to that viewpoint. They are also entitled to the fair share of funding that we have designated without any questions, without any quid pro quo.

We respect and always have respected the Members' right to vote their district and their conscience. We would ask them, and I do not think there is anything inappropriate to ask a Member to support this legislation, but we respect their right not to.

Mr. Speaker, I think the gentleman from Pennsylvania has conducted himself with the highest dignity, with the appropriate character of a Member of Congress of this distinguished body, in the same manner that he has done for his 26 years in the House of Representatives. I join with him in reproving those who have used such inappropriate language. It is an assault upon the integrity of the chairman of this committee, a Member who has championed the cause for all of America for better transportation, better investment in the future of our economy, and I salute the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, reclaiming my time, I thank the gentleman from Minnesota for those words.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I want to commend the gentleman from Pennsylvania (Mr. SHUSTER) for being a chairman and taking care of the jurisdictional authority which he is in charge of. I am tired of the "pork barrel" labels on the gentleman from Pennsylvania and on the gentleman from Minnesota (Mr. OBERSTAR).

Mr. Speaker, I had five bridges in the original ISTEA bill, and one of the major news networks came to my district and said, boy, you are getting all of this pork. And I said, come on down. Then I showed them bridges with a sway, with a 2-ton weight limit. The next bridge down had a 5-ton weight limit. And I got those bridges built. I got the money for them. And they are still not built; they are now under process. That is how many years it takes.

Well, I want to announce here that as soon as the wrecking crew appeared on the Center Street Bridge, the first time the backhoe hit one of the steel structures, the bridge collapsed.

□ 1015

They said, thank God citizens were not killed. Enough of this pork barrel madness. Ohio had 28 major projects announced last year, and my district did not get one of them; and I have the most infrastructure needs in the country. No Member of Congress should go home and flout this pork barrel if they have got infrastructure needs and they are not taking care of it. Because that is why we are elected.

And by God, I am just glad we are building the Center Street bridge and no one in my district got hurt. I want to say this as a former Pitt grad, my colleague stands for what a chairman should be; and all chairmen should deal with their jurisdictional authority and dispatch the duties like he has.

I stand with him, proud to be associated with him, and I commend him and the gentleman from Minnesota (Mr. OBERSTAR) for the fine job they have done on this bill.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for his statement.

Mr. OBERSTAR. Mr. Speaker, if the Chairman would continue to yield, let me just emphasize once again, never on our side or on the chairman's side of the aisle was any Member told that conclusion of their project was contingent upon or dependent upon their vote. No Member was asked how they intended to vote in advance. Projects were included for Members on the basis of the merits of the project, not on how they would vote.

Mr. Speaker, I include the following for the RECORD:

Washington, DC, March 7, 1996.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN SHUSTER: Recently, the Oklahoma Department of Transportation submitted an authorization request to your Committee to extend the Broken Arrow Expressway from I–44 southeast approximately 8.0 miles to the Tulsa County Line.

I am forwarding the enclosed request on to your Committee for its consideration. I am confident that the merit of the project will speak for itself.

Sincerely,

STEVE LARGENT,
Member of Congress.

INFORMATION REQUESTS FOR TRANSPORTATION PROJECTS STATE OF OKLAHOMA

Project Description: SH 51 (Broken Arrow Expressway) extending from I–44 southeast approximately 8.0 miles to the Tulsa County Line.

EVALUATION CRITERIA AND RESPONSES ARE AS FOLLOWS

1. Name and Congressional District of the Primary Member of Congress sponsoring the project, as well as any other Members supporting the project (each project must have a single primary sponsoring Member).

U.S. Representative Steve Largent.

2. Identify the State or other qualified recipient responsible for carrying out the project.

Oklahoma Department of Transportation.

3. Is the project eligible for the use of Federal-aid funds (if a road or bridge project, please note whether it is on the National Highway System)?

This project is eligible for Federal-aid funds and it is on the National Highway System.

4. Describe the design, scope and objectives of the project and whether it is part of a larger system of projects. In doing so, identify the specific segment for which project funding is being sought including terminus points.

Design/Scope: Reconstruct the existing 4 lane highway and add 2 additional lanes to provide a 6 lane facility. This project will complete the final improvements to upgrade the Broken Arrow Expressway which connects the Tulsa central business district with Broken Arrow, Oklahoma and the residential developments in the western portion of Wagoner County. The specific section we are requesting funding for extends from I–44 southeast 8.0 miles to the Tulsa/Wagoner County Line.

5. What is the total project cost and proposed source of funds (please identify the federal, state, or local shares and the extent, if any, of private sector financing or the use of innovative financing) and of this amount, how much is being requested for the specific project segment described in item #4?

The estimated total cost of this project is $160,000,000 and the average daily traffic volume on this section of highway is in excess of 78,000 vehicles daily.

10. Does the project have national or regional significance?

This project is on the National Highway System and it serves as a connector route between I–44, I–444, I–244, US 64, US 169 and the Muskogee Turnpike. Consequently, this highway serves both local commuter traffic and interstate travel which makes it significant from a national and regional level.

11. Has the proposed project encountered, or is it likely to encounter, any significant opposition or other obstacles based on environmental or other types of concerns?

Although an environmental assessment has been completed on this project, a reassessment will be required. The EA includes the mainline, but does not include the interchange at US 169. Clearance of the SH 51/US 169 interchange will likely require intermodal issues and a major investment study (MIS).

12. Describe the economic, energy efficiency, and environmental, congestion mitigation and safety benefits associated with completion of the project.

Widening this expressway to 6 lanes, reconstructing the major clover leaf interchanges, and providing full directional interchanges will significantly increase capacity, reduce congestion and improve the safety of this major highway serving the Tulsa metropolitan area.

13. Has the project received funding through the State's Federal aid highway apportionment, or in the case of a transit project, through Federal Transit Administration funding? If not, why not?

The State of Oklahoma has expended in excess of $34,000,000 in State and Federal funds on this project to perform preliminary engineering work, acquire right-of-way, relocate

utilities, and reconstruction work on several sections of the highway in the past few years.

Is the authorization requested for the project an increase to an amount previously authorized or appropriated for it in federal statue (if so, please identify the statute, the amount provided, and the amount obligated to date), or would this be the first authorization for the project in a federal statute? If the authorization requested is for a transit project, has it previously received appropriations and/or received a Letter of Intent or entered into a Full Funding Grant Agreement with the FTA.

The authorization requested for this project would be the first one received by the State of Oklahoma on the Broken Arrow Expressway.

Washington, DC, February 25, 1997.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: Enclosed, please find a copy of an ISTEA funding request by the City of Charlotte, North Carolina, which we both represent. As the attached proposal indicates, the City of Charlotte is seeking funds for a South Corridor Transitway, one of the first of its kind in the United States. This project would link Uptown Charlotte to Southeast Charlotte via a 13.5 mile express bus transitway, relieving traffic congestion and providing improved access to the City's Uptown area.

We respectfully submit this proposal by the City of Charlotte and ask for your due consideration of this request. Please do not hesitate to contact either one of us with questions or concerns. We would both be pleased to speak with you further concerning this project.

Thank you in advance for your consideration.

Sincerely,

SUE MYRICK,
Member of Congress.
MELVIN WATT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 6, 1997.

Hon. THOMAS E. PETRI,
U.S. House of Representatives, Chairman-Subcommittee on Surface Transportation, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN PETRI: I encourage you to read the following testimony and letter. The enclosed detail very carefully the importance of Oklahoma's surface transportation.

I request that you give the State Highway 51 demonstration project proposal your full consideration.

In advance, I would like to thank you and your colleagues on the Transportation and Infrastructure Committee for your diligence and hard work on the upcoming ISTEA reauthorization.

Sincerely yours,

TOM A. COBURN, MD,
Member of Congress.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma, OK, February 21, 1997.

Hon. THOMAS E. PETRI,
U.S. House of Representatives, Chairman-Subcommittee on Surface Transportation, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN PETRI: The significance of our surface transportation system should not be under estimated. Careful investment in our infrastructure increases productivity and economic prosperity at local and regional levels. Despite the importance of our transportation system to the nation's economic health, investment has fallen well short of what is truly needed. Dealing with these needs will require numerous approaches, including special project funding.

As you begin the monumental task of reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991 (ISETA), we, the undersigned, wish to lend our support to the following special funding request which is in addition to our existing obligation limit and is critical to the transportation needs of the State of Oklahoma.

SH 51 extending from Coweta east approximately 14.6 miles to Wagoner, Oklahoma.

We commend your committee for its role in enacting ISTEA and for the subsequent improvements made with the passage of the National Highway System Bill last year. A sound national transportation policy is critical to our state's economy and our nation's ability to compete globally. To that end we urge you to evaluate our request and take the appropriate action.

Sincerely,

FRANK KEATING,
Governor.
NEAL A. MCCALEB,
Secretary of Transportation.
HERSCHAL CROW,
Chairman, Oklahoma Transportation Commission.

DEMONSTRATION PROJECT TESTIMONY, STATE HIGHWAY 51, WAGONER, OKLAHOMA

Submitted by: the Honorable Tom A. Coburn, U.S. House of Representatives and Neal A. McCaleb, Secretary of Transportation, State of Oklahoma

State Highway 51 (SH 51): SH–51 extending east from Coweta to the Arkansas border, has been identified as a Transportation Improvement Corridor. Eastern Oklahoma has an ever increasing population. Tourism has also increased in the Fort Gibson Lake and Tahlequah areas. These two factors form the basis of why reconstruction of SH–51 is of foremost concern.

The route has a high accident rate and contains bridges that are structurally deficient or functionally obsolete. For projected traffic, this two lane route with no shoulders is unacceptable, and could ultimately curb any future economic growth in the northeastern region of Oklahoma.

In addition to tourism dollars, the highway also serves as a major travel corridor and commuter route extending from the Tulsa Metropolitan area east to Broken Arrow, Muskogee and the Arkansas state line.

SH–51 is crucial to the region's business, industry and labor, because it provides access to the Tulsa metropolitan area, McClellan Kerr Navigational System, and several recreational areas in eastern Oklahoma.

Nationally significant, SH–51 connects with I–44, I–244, the Muskogee Turnpike, US–412 and other major routes in eastern Oklahoma.

It is essential that SH–51 be expanded to four lanes to increase capacity, promote tourism, boost economic growth, and to improve safety and congestion. This project is estimated to cost $63 million, and although the state has expended nearly $34 million to improve this corridor, it is simply not enough in view of the overall critical needs of the entire highway system.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON SURFACE TRANSPORTATION INFORMATION REQUESTS FOR TRANSPORTATION PROJECTS, STATE OF OKLAHOMA

Project Description: SH 51 extending from Coweta east approximately 14.6 miles to Wagoner, Oklahoma.

Evaluation Criteria and Responses are as follows:

1. Name and Congressional District of the Primary Member of Congress sponsoring the project, as well as any other Members supporting the project (each project must have a single primary sponsoring Member).

Response to No. 1: U.S. Representative Tom Coburn.

2. Identify the State or other qualified recipient responsible for carrying out the project.

Response to No. 2: Oklahoma Department of Transportation.

3. Is the project eligible for the use of Federal-aid funds (if a road or bridge project, please note whether it is on the National Highway System)?

Response to No. 3: This project is eligible for the use of Federal-aid funds, but it is not on the National Highway System.

4. Describe the design, scope and objectives of the project and whether it is part of a larger system of projects. In doing so, identify the specific segment for which project funding is being sought including terminus points.

Response to No. 4: Design/Scope: Reconstruct to 4 lanes. The objectives of this project is to continue improving SH 51 from Tulsa extending west approximately 59.0 miles to Tahlequah, Oklahoma. The specific section for which we are requesting funding extends from Coweta east 14.6 miles to Wagoner, including the Wagoner bypass.

5. What is the total project cost and proposed source of funds (please identify the federal, state, or local shares and the extent, if any, of private sector financing or the use of innovative financing) and of this amount, how much is being requested for the specific project segment described in Item No. 4?

Response to No. 5: The estimated total cost of this project is $63,000,000.00 and we are requesting $50,400,000.00 in Federal-aid funds. The State of Oklahoma will provide $12,600,000.00 in matching funds to finance this project.

6. Of the amount requested, how much is expected to be obligated over each of the next 5 years?

Response to No. 6: All of the funds we are requesting can be obligated over the next 5 years.

7. What is the proposed schedule and status of work on the project?

Response to No. 7: The environmental clearance has been completed on this project. However, a reassessment may be necessary. Following completion of the environmental reassessment, right-of-way and design plans will be prepared and this takes approximately 2 years. Right-of-way acquisition will then take about 18 months to complete. Construction contracts should be ready for letting within 4 to 5 years.

8. Is the project included in the metropolitan and/or State Transportation Improvement Program(s), or the State long-range plan and, if so, is it scheduled for funding?

Response to No. 8: The right-of-way acquisition and utility relocations for one section of this project are currently on the Statewide Transportation Improvement Program and funding is scheduled for these items. The entire project limit, however, is identified as

one of the transportation improvement corridors in the Statewide Intermodal Transportation Plan (long range plan). Due to the high cost of this project and the State's limited funds, the remaining construction, right-of-way, and utility phases of this project are not currently scheduled.

9. Is the project considered by State and/or regional transportation officials as critical to their needs? Please provide a letter of support from these officials, and if you cannot, explain why not.

Response to No. 9: This project is considered critical to the economic growth of the eastern region of Oklahoma which generates a large amount of tourism in the Fort Gibson Lake and Tahlequah areas. The highway also serves as a major travel corridor and commuter route extending from the Tulsa Metropolitan area east to Broken Bow, Muskogee and the Arkansas State Line.

10. Does the project have national or regional significance?

Response to No. 10: This project is regionally significant because it provides access to the Tulsa metropolitan area, McClellan Kerr Navigational System, and several recreational areas in eastern Oklahoma. SH 51 is also nationally significant because it connects with I-44, I-244, the Muskogee Turnpike, US 412, and other major routes in the eastern section of Oklahoma.

11. Has the proposed project encountered, or is it likely to encounter, any significant opposition or other obstacles based on environmental or other types of concerns?

Response to No. 11: The environmental clearance has been completed on this project. However, a reassessment is likely. We do not anticipate any major opposition or other obstacles that will delay construction of this project.

12. Describe the economic, energy efficiency, environmental, congestion mitigation and safety benefits associated with completion of the project.

Response to No. 12: Widening SH 51 to a 4 lane highway will increase capacity, promote tourism and economic growth in the region, and improve the safety and congestion along this major highway serving the eastern region of Oklahoma.

13. Has the project received funding through the State's Federal-aid highway apportionment, or in the case of a transit project, through Federal Transit Administration funding? If no, why not?

Response to No. 13: During the past few years the State has expended in excess of $34,000,000.00 to improve this corridor between I-44 in Tulsa and the Arkansas State Line. However, because the overall critical needs of the entire highway system far exceeds the limited funding levels, this project from Coweta to Wagoner has not received funding through the State's Federal-aid highway apportionments.

14. Is the authorization requested for the project an increase to an amount previously authorized or appropriated for it in federal statute (if so, please identify the statute, the amount provided, and the amount obligated to date), or would this be the first authorization for the project in federal statute? If the authorization requested is for a transit project, has it previously received appropriations and/or received a Letter of Intent or entered into a Full Funding Grant Agreement with the FTA?

Response to No. 14: This is the first authorization we have requested for this project.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 10, 1997.

Hon. BUD SHUSTER,
Chairman, House Committee on Transportation, Rayburn House Office Building.
Hon. THOMAS PETRI,
Chairman, Subcommittee on Surface Transportation, Rayburn House Office Building.
Hon. JIM OBERSTAR,
Ranking Democratic Member, House Committee on Transportation, Rayburn House Office Building.
Hon. NICK RAHALL,
Ranking Democratic Member, Subcommittee on Surface Transportation, Rayburn House Office Building.

DEAR MR. CHAIRMAN AND RANKING MEMBERS: On February 25, 1997, the North Carolina Delegation forwarded to your attention copies of the State of North Carolina's highway transportation project priorities.

Included in this package, there were two funding requests that are of particular concern to our districts, the Ninth and Twelfth Districts of North Carolina. These requests regarded funding for construction of the Eastern and Western Outer Loops in Charlotte, Mecklenburg County, North Carolina. The completion of the Outer Loop is the foremost road priority for our region during consideration of transportation funding this year. The purpose of this letter is to formally inform you of our strong support for this critical transportation need for the City of Charlotte.

We thank you in advance for your consideration of this request. Please do not hesitate to contact either of us if we can provide you with further information regarding the Outer Loop project.

Sincerely,

SUE MYRICK,
Member of Congress.
MELVIN WATT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 20, 1997.

Chairman BUD SHUSTER,
Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: We are writing to express our strong support for the I-40 cross bridge project, which was submitted to the Surface Transportation Subcommittee in February. This project is important not only to the State of Oklahoma, but also to the Nation.

The I-40 cross bridge is in a critical state of disrepair. There are serious safety concerns surrounding the continued use of this bridge. Due to these concerns Oklahoma inspects this particular bridge every six months; other bridges are inspected only once every two years.

It is critical to the State and to the Nation that this bridge remains open. Recently, the Oklahoma Department of Transportation determined that approximately 102,000 cars cross this bridge every day. Furthermore, 61% of all the trucks that cross this bridge are out of state trucks. Clearly, this bridge is heavily traveled by more than just Oklahomans.

Both the Governor of Oklahoma and the Secretary of Transportation have endorsed this project and have made it the number one transportation priority for the State of Oklahoma. Unfortunately, due to the magnitude of the project, Oklahoma does not have the funds to tackle it at this time.

We are committed to working with our state officials to ensure that this project receive the attention and funding it needs. We would greatly appreciate your consideration of the merits of this project. The I-40 cross bridge is indeed vital to both Oklahoma and the overall interstate system. Please let us know if we can provide you with additional information.

Sincerely,

REP. J.C. WATTS, JR.
REP. ERNEST ISTOOK, JR.
REP. STEVE LARGENT.
REP. FRANK LUCAS.
REP. WES WATKINS.
REP. TOM COBURN.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CALVERT). The Chair will entertain 10 one-minutes on each side.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 981

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, the Fairness for Small Business and Employees Act will be considered by the House today. Title I of this bill makes it clear that an employer does not have to hire someone who is not a bona fide applicant. In other words, a job applicant's primary purpose in seeking the job must be to work for the employer, not for someone else.

Mr. Speaker, H.R. 3246 was drafted after careful examination of the best way to protect employers, while not upsetting the principles of the National Labor Relations Act. It addresses the worst examples of salting in which people who have no intention of really working for an employer are simply filling jobs and filing charges to disrupt the employer's operation, resulting in lost productivity and thousands of dollars in legal fees to defend weak allegations.

This bill addresses the problems which occur when someone applies for a job in a nonunion workplace for the primary purpose of disrupting the workplace and furthering the union agenda. I hope my colleagues will vote for H.R. 3246.

TELECOMMUNICATIONS DEREGULATION

(Mr. DEFAZIO asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, just 3 years ago the Republican leaders and the Clinton administration touted all the benefits that would flow from telecommunications deregulation. Cable would compete with phone, phone with cable, lower rates, better service, new technology. Three years' experience has shown those promises to be hollow.

There is no competition between phone and cable. Cable rates have skyrocketed, local phone rates are going up, service has deteriorated. Then we get all those evening phone calls. This is not a consumer-friendly bill. But, all in all, it has delivered a golden egg for Wall Street and a few companies and a goose egg for Main Street consumers and small business.

Now the Clinton administration and the Republican leaders want to rush to deregulate our electric power. Lower rates, new technology, more competition. We have heard it before. Wall Street and a number of large energy companies are just slathering over the products. The results for consumers and small business will be the same as telecommunications, evening phone calls, higher rates, worse service.

SKY TAVERN JUNIOR SKI PROGRAM

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, when it comes to birthdays or anniversaries, it does not matter whether we call it five decades, 50 years, or just half a century. No matter how we say it, the Sky Tavern Junior Ski Program in northern Nevada deserves our special recognition and congratulations.

Today, I rise with great pride to announce that this year marks the 50th anniversary of the Sky Tavern Junior Ski Program. Since 1948, this program, maintained and run completely by volunteers, has taught thousands of young people in northern Nevada to ski.

The generosity and commitment of hundreds of volunteers and ski instructors have made it possible for these kids from all economic backgrounds to benefit from this program. But the Sky Tavern program provides these people with more than just skiing lessons. It also teaches them the value of a hard day's work and the importance of giving back to their community.

I am proud to represent a community with such outstanding people and such a marvelous program. I am also equally proud to call myself an alumnus of the Sky Tavern Junior Ski Program. To all of them, congratulations, and we look forward to another half century of success and contribution to the children of Nevada.

REPUBLICANS' CAMPAIGN FINANCE REFORM BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it is Academy Award week, but the Republicans' campaign finance reform bill is not winning any Oscars this year. It is little wonder the Republican leadership pulled the bill from today's floor schedule, for the reviews are in and the critics have panned the GOP proposal.

Every credible campaign finance organization has sharply criticized this bill. The League of Women Voters says, "This bill would take a big step in the wrong direction." Common Cause's Anne McBride says, "This bill is a hoax. No one should be fooled by this cynical effort." Public Citizen's Joan Claybrook urges Members to "oppose the sham and repugnant House Oversight reform bill, a partisan bill that is the exact opposite of reform."

Democrats believe that campaign finance reform is essential to renewing America's faith in our democracy. Let us fight for real reform. Let us pass McCain-Feingold II and stop this sham with the Republican leadership's proposal.

CONGRESS NEEDS TO ASK MORE QUESTIONS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I have some questions to ask today.

Is it not strange that this White House can find and release in a matter of hours a half-dozen private letters written years ago by a volunteer, but it takes months and even years to find official documents officially requested by official government agencies?

Is it not strange that the pundits and spin doctors representing Bill Clinton have so much to say when no one elected them, while the President continues to say nothing?

Is it not strange that the President invokes executive privilege to keep his aides from telling what they know when he says he has nothing to hide?

Is it not strange that every person who dares to speak up about Bill Clinton's behavior is smeared and slandered by the White House attack team?

I think we need to ask more questions.

SECURING BORDERS FOR AMERICAN PEOPLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a classified U.S. Government report says that Mexico's military is allowing massive shipments of narcotics into America. Wow, what a surprise. Barney Fife even knows that, folks. Let us tell it like it is.

Mexico is the biggest drug pusher in the world, and Uncle Sam is the world's biggest junkie. Shame, Congress. It is time to stop this narcotic madness. Number one, Congress should absolutely repeal NAFTA; and number two, if Congress can ensure the securing of borders in Bosnia, Western Europe, the Mideast, and Korea, then, by God, Congress should be able to secure the borders for the American people.

Think about that. This narcotics business is not hard to figure out.

I yield back all the balance of overdoses in our cities throughout the country.

VIOLENCE IS PERVASIVE IN OUR CULTURE

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, it is outrageous to me that the talking heads on the liberal news networks with all their expertise and social behavior have not figured out the cause of the Jonesboro, Arkansas, tragedy.

To listen to the evening and morning news and their take on the story, that it is because of Southerners with their obsession with guns and their hunting culture; in other words, Southerners, in their opinion, are a bunch of gun-crazy rednecks.

Mr. Speaker, being a Southerner, and along with many other Southerners that have felt the sadness of this tragedy and other tragedies, I am offended by that outrageous assumption. If we want to start placing blame for this and the other tragedies, why not start with the TV networks, where our children are exposed to assault, murder, rape, drug, sex, deviant lifestyles, cheating, stealing, and uncivilized gutter language.

Mr. Speaker, the tragedy is that violence is not confined to any one region or community in this Nation; it is pervasive in a culture that is obsessed with violence, sex, and self-gratification. The truth is, what goes in our children eventually comes out.

"SO-CALLED" FOREST RECOVERY BILL

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, I am here to talk about the so-called forest recovery bill.

This bill is bad for the environment and it is bad for the economy. The

sponsors say it will fix environmental problems in the forest. But, in fact, it will harm our public forests. And because it is such a bad bill, we have a lot of people who are opposing it.

The League of Conservation Voters have said they will score this as a key no vote. Who else is opposing the bill? Quite a lot of people: the Methodist Church, Taxpayers for Common Sense, the Presbyterian Church, Religious Center for Reformed Judaism, The National Audubon Society, and the US PIRGs.

Sure, we do have environmental problems. But we are trying to fix those problems at a local level. We have hundreds of private-public partnerships working to fix those environmental problems.

What this bill is a fix from Washington, DC. We do not need a fix from Washington, DC. We need to fix our environmental problems on the ground, people who understand, people who know the problems.

So I say, vote no on H.R. 2515.

IRS IS OUT OF CONTROL

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, I rise today to thank the individual who made the following statement: "It is time to change IRS to RIP, rest in peace." They hit the nail on the head. The Internal Revenue Service is truly out of control, just like the tax system it oversees.

This Congress approved important Internal Revenue Service reforms last year which provide critical new protections for the American taxpayer. I hope those reforms will be enacted because they will certainly be an improvement. However, I fear these reforms will not be enough for the American people.

The American people need more tax relief, both from the size of the checks they write to the Internal Revenue Service and from the lengthy and burdensome process they must struggle through each year simply to determine how much they owe. In fact, Americans spend $200 billion a year and 5.4 billion hours annually merely complying with the Tax Code.

I believe that a fairer, simpler tax system is the answer. It is the best way to truly change IRS to RIP.

REPUBLICANS' CAMPAIGN FINANCE REFORM BILL IS EMBARRASSMENT TO COUNTRY

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Mr. Speaker, why would the Republican leaders of this House send to the floor a campaign finance reform bill that is not campaign finance reform, a bill that Common Cause calls a "hoax," the League of Women Voters calls a "travesty," The New York Times calls a "charade," and the Washington Post calls a "mockery"?

Has the Republican leadership become like a fish that no longer feels the water, that no longer feels wet in the water?

What do I mean by that? Have they become like a fish that is swimming in money all the time in Washington, D.C., no longer aware of how inappropriate these huge, unregulated several hundred thousand dollar donations are?

This campaign finance reform bill they are presenting to this House floor, the only one they are letting come to this floor, is not campaign finance reform. It is not leadership; it is an embarrassment to this country.

FOR A BETTER AMERICA, WE MUST BE BETTER AMERICANS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, Congress has worked very hard to rebuild a strong economy and bring hope to our children. It took a great deal of discipline and dedication and it was not without sacrifice. But the results are record-setting days on the New York Stock Exchange, dwindling unemployment and welfare lines, and expanding consumer confidence.

But what good will come from the strong economy if we have an empty soul? This week we were all stunned and saddened by the two boys who ambushed a school and killed four young girls with promising lives, and a young teacher with a promising career in Jonesboro, Arkansas. But that was not the only indication that our culture is in a moral free-for-all.

The day after this tragedy, in Dale City, California, a boy shot at a principal; in Coldwater, Michigan, another student committed suicide outside his school; and in Princeton, Texas, a student slashed three teachers with a razor blade.

Mr. Speaker, it is time for us to rebuild our moral culture like we rebuilt our economy. It is time to overcome the culture of violence that permeates on our TVs and from our movies. Each of us must participate. It is up to us. We must talk to our children, honor our commitments. If we want a better America, we must be better Americans.

WORKERS SHOULD BE ABLE TO ORGANIZE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I rise on behalf of working people to urge Congress to reject H.R. 3246, a bill to restrict workers from organizing.

H.R. 3246 will make it much more difficult for workers to organize other workers for better pay and benefits. It would allow employers to refuse employment to workers on the basis of their outside group affiliations. It would do this by overruling a Supreme Court decision which held that employees who took jobs at nonunion employers to assist other workers to form a union, that those employees could not be fired for disloyalty.

□ 1030

H.R. 3246 turns the clock back to the 19th century when workers had few rights. I urge my colleagues to defend the rights of workers. Let us unite to declare, people have a right to a job, a right to decent wages and benefits, a right to safe working places, a right to compensation if they are injured on the job, a right to decent health care, a right to organize, a right to join a union, a right to grieve about working, and a right to participate in the political process. We in Congress have an obligation to protect the rights of working people.

TAX CODE MUST GO

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, here is a quiz. What has over 3,500 pages, is practically impossible to understand and is so complicated that rich people, poor people, middle class people all think it is an unfair monstrosity? Of course it is the Federal Tax Code, all 3,500 pages of it.

The Tax Code is a monument to the power of special interests, a symbol of big government and liberalism run amok, a scourge to all who believe in fairness, openness and common sense. I am convinced that just reforming the Tax Code is not going to work. No, Mr. Speaker, the Tax Code will have to go because the Tax Code is fundamentally corrupt. It is not an honest system when people trying to do the best they possibly can to figure out how much they owe make innocent mistakes and then get hammered by the IRS. A simple tax, maybe a sales tax, maybe a flat tax, with a low interest rate is the only way to have fairness, transparency and honesty in the way the Federal Government collects revenue.

Let us get serious. Let us replace, not just reform, the 3,500 pages of the Tax Code.

MEXICO'S PLAN TO REDUCE THEIR OIL PRODUCTION

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, I rise today to express strong outrage concerning recent reports about Mexico's

plans to reduce the production of crude oil, which will result in higher gasoline prices at the pump.

Mr. Speaker, it was not too long ago, the same Mexican government officials who today seek to increase the price of crude oil came to the United States seeking financial assistance and aid. This special assistance was over and above what we have already given to the Mexican government in development aid and to support counternarcotics efforts. This body debated and ultimately approved a $20 billion bailout package to prop up the peso and save the Mexican economy from collapsing. Without this money, the Mexican economy would have surely fallen and today Mexico is on the road to recovery.

Now, just over 3 years later, how does Mexico repay us for our role in pulling them back from the brink of economic disaster? They repay us by attempting to drive up the price of crude oil. This is wrong and we need to stop it now.

AN AGENCY IN SHAMBLES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, anyone who still believes big government works or that the Federal Government can do anything in an economical way should just read the daily newspaper almost any day.

Today it is the Forest Service. According to the Government Accounting Office, the Forest Service has lost $215 million. It has simply vanished. They cannot account for it. Can you imagine that? It would really take some doing to lose $215 million, but somehow the Forest Service has managed to do it.

A report being released today compiled from GAO reports describes the Forest Service as "an agency in complete shambles." Yet at a hearing which begins in just a few minutes, the Forest Service will be requesting a $43 million increase in its budget. This agency in shambles has gotten huge increases in funding over the last decade and now it wants even more. Maybe the Forest Service can lose more than $215 million next year.

Mr. Speaker, we need to help every family in America by decreasing the government's budget and increasing the family's budget.

CAMPAIGN FINANCE REFORM

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, last night the Republican leadership pulled the campaign finance bill from the House Committee on Rules. They did so not because they feared that it would fail, they did so because they feared that it would pass. They feared for the first time that there would be a bipartisan coalition in this House that would support meaningful campaign finance reform when we were given an opportunity to offer that on the motion to recommit. So rather than recognize that a majority of this House, Republicans and Democrats together, want to reform our finance system for campaigns, they pulled the bill, because the Republicans are trying to manage a defeat. They are not trying to manage a victory. They do not want campaign finance reform to pass. They want it to fail.

The problem is now the bill has too many votes. So they have to go back and tinker with it to see if they can make sure that enough people will not approve it. Their bill will fail. Real reform will pass. That is their problem. They want to stifle working families from participating in campaigns and triple the amount of money that rich families can give to campaigns.

CUBA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks:)

Ms. ROS-LEHTINEN. Mr. Speaker, next Tuesday Capitol Hill will be visited by various organizations that support the repressive regime's agenda which promotes the myth that there is an embargo on food and medicine to Cuba. Mr. Speaker, nothing can be further from the truth. The United States is in fact the leading humanitarian aid donor country to Cuba, more than all of the nations of the world combined. The United States has sent more than $227 million in humanitarian donations to the people of Cuba.

The shortages of medicine and food in Cuba is caused by the misguided failed Marxist policy of the dictatorship and not what people incorrectly perceive as U.S. policy and U.S. laws. The regime redirects these supplies to tourist-only hospitals and hotels.

U.S. policy, in fact, which a majority of the American people support according to a new survey released just yesterday by the American Enterprise Institute, is not at fault for Cuba's ills. The facts are clear. The embargo that must be lifted is the embargo on freedom and human rights and democracy which Castro imposes on his people.

INTERNET IN UGANDA

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, as the President travels the continent of Africa, he has made a whole lot of promises. For example, earlier this week he promised to send taxpayers' money to Uganda to help them wire their schools for the Internet. We have schools right here in the District of Columbia with roofs that leak, and the President has promised money for the school districts of Uganda.

You would think that Bill Clinton is running for the President of Uganda. But I doubt that the people of Uganda would support the President's agenda of higher taxes and more Washington spending. I wonder if this is just another version of executive privilege.

Mr. Speaker, I hope the President returns soon. The way he is making promises in Africa, we can all kiss that surplus good-bye.

SMALL BUSINESS PAPERWORK REDUCTION ACT AMENDMENTS OF 1998

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3310) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI or section 303 or 311 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform and Oversight now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with section 303 or section 311 of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business,

provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a noncontroversial resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Government Reform and Oversight. After general debate, the bill shall be considered for amendment under the 5-minute rule.

The proposed rule makes in order an amendment in the nature of a substitute recommended by the Committee on Government Reform and Oversight as an original bill for the purpose of amendment and provides that it will be considered as read.

Furthermore, Mr. Speaker, under House Resolution 396, points of order against consideration of the bill for failure to comply with clause 2(1)(6) of rule XI, or section 303 or 311 of the Congressional Budget Act of 1974 are waived. Likewise, points of order against the committee amendment in the nature of a substitute for failure to comply with section 303 or section 311 of the Congressional Budget Act are waived.

Mr. Speaker, House Resolution 396 also provides that the Chairman of the Committee of the Whole may accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Furthermore, the rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote.

At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions. This rule was reported out of the Committee on Rules by voice vote.

Mr. Speaker, the underlying legislation, the Small Business Paperwork Reduction Act Amendments of 1998, is intended to reduce the burden of Federal paperwork on small businesses by requiring the publication of a list of all Federal paperwork requirements on small businesses, and requiring each Federal agency to establish one point of contact to act as a liaison with small businesses.

In my opinion, Mr. Speaker, this legislation is a good step forward. Clearly, the burden of Federal regulations on the American public continues to grow. In 1997, total regulatory costs were $688 billion. When these costs are passed on to the consumer, the typical family of four pays about $6,800 per year in hidden regulatory costs. Therefore, the publication of all the Federal paperwork requirements on small business may further enlighten decisionmakers on the hidden costs of red tape. I encourage my colleagues to support this rule, and the underlying legislation.

Mr. Speaker, I include the following letter:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, March 25, 1998.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules,
House of Representatives, Washington, DC.

DEAR CHAIRMAN: I understand that the Committee on Rules is scheduled to meet to consider a rule providing for the consideration of H.R. 3310, the Small Business Paperwork Reduction Act Amendments of 1998.

As reported by the Committee on Government Reform and Oversight, the bill would reduce revenue by $5 million in fiscal year 1999 and $25 million over five years.

Consequently, the bill violates sections 303(a) and 311(a) of the Congressional Budget Act by reducing revenue first effective in a fiscal year for which a budget resolution has not yet been agreed to (fiscal year 1999) and by reducing revenue below the five-year revenue floor as established by H. Con. Res. 84.

However, I would note that last year the House passed H.R. 2675, the Federal Employees' Life Insurance Improvement Act of 1997, which increased offsetting collections by $6 million in fiscal year 1998 and $72 million over five years. H.R. 2675 was also reported by the Committee on Government Reform and Oversight.

Sincerely,

JOHN R. KASICH,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

□ 1045

Mr. Speaker, I do not oppose this rule; it allows all germane amendments to be offered. However, the rule does include several waivers of House rules that trouble me. The rule waives clause 2(L)(6) of rule XI which provides for a 3-day layover of the committee report accompanying this bill. This House rule allows Members time to study the report and decide whether they would like to offer or support amendments. While this requirement is often waived for pressing budget or appropriations matters, there is nothing in the record as to why the House must take up H.R. 3310 in such haste.

Of more concern are the waivers in this rule of the Congressional Budget Act. Some are technical waivers, common for bills considered before the annual budget resolution is passed. However, this rule also waives section 311 of the Congressional Budget Act. Section 311 prevents measures from being considered which exceed the spending limits or lower revenues that have been set by the current budget agreement. The loss of receipts because of this bill are not large, about $5 million annually, but again nothing in the record indicates why a small offset could not have been found that would have allowed the House to consider this bill without violating our Budget Act and its pay-as-you-go provisions. As we all know, strict adherence to pay-as-you-go rules has been a key in our ability to lower the deficit and to balance the budget.

Mr. Speaker, I also have questions about some provisions of the underlying bill, H.R. 3310. I support efforts to reduce paperwork requirements on small business, and I have supported the legislation that was passed by Congress to reduce the paperwork requirements such as the Paperwork Reduction Act and the Small Business Regulatory Enforcement Fairness Act, and the administration has streamlined regulations through its initiative to reinvent government and the implementation of the White House Conference on Small Business Recommendations.

There are aspects of the bill that I support. H.R. 3310 would require Federal agencies to publish paperwork requirements for small businesses so that they can know exactly what is required of them. It would require each Federal agency to establish a liaison for small business paperwork requirements to help small businesses comply with their legal obligations, and would establish a task force to consider ways to streamline paperwork requirements even further.

It is unfortunate, however, that the Committee on Government Reform and Oversight included other provisions in this bill that could be dangerous to the safety and the health of the American people. This bill would prohibit the assessment of civil penalties for most first-time violations of information collection or dissemination requirements if those violations are corrected within 6 months. The civil penalty provisions in this bill effectively remove agency discretion from regulatory enforcement decisions against first-time violators. Although this provision may sound good on the surface, it could cause serious problems. It could hamper agency efforts to take actions to

protect the health and safety of the American people.

For example, this bill could make it more difficult to catch drug dealers by weakening the enforcement of the requirement in the financial institutions report cash transactions that exceed $10,000, a requirement that obviously helps law enforcement officials identify criminal activity.

The bill can make our highways less safe by weakening the enforcement of reporting requirements on the transportation of hazardous materials.

The bill could make medicines more dangerous to take by weakening the enforcement of the requirement that manufacturers report adverse effects.

This bill could make it more difficult to protect investors and pensioners by weakening the enforcement of requirements that create audit trails and prevent fraud.

The bill could make it more difficult to deter illegal immigration by weakening the enforcement of the requirement that employers document the eligibility of new employees.

The bill could make our workplaces less safe by weakening the enforcement of health and safety requirements on the job.

While the bill does contain some exceptions to the suspension of first-time paperwork fines, the standards are high. They quote actual serious harm to the public health or safety, unquote, or, quote, eminent and substantial danger to the public health and safety, end quote. In fact, this provision provides no relief to honest businesses doing the best they can to obey the law. It gives an unfair advantage to the small minority of businesses that try to undercut their competition by willfully violating or ignoring the law. If this bill became law in its current form, those businesses disinclined to follow the law would have no incentive to obey the law until they had actually been cited for violation.

As has been pointed out often on this floor the past few years, many agencies do not have sufficient resources to regularly check on the businesses they regulate. That means that enforcement of public health and safety protections depends on voluntary compliance. This provision would reward noncompliance with a law.

For these reasons, this bill is opposed in its current form by the administration, consumer groups, labor unions, and environmental groups. However, the rule we are debating will allow the House to solve many of the problems in this bill. The gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) will offer an amendment that provides for agency discretion in the imposition of civil penalties against first-time violations. The amendment also requires agencies to establish policies or waive or reduce civil penalties for first-time inadvertent violations.

Mr. Speaker, I support an H. Res. 396 provision that any germane amendment can be offered under the 5-minute rule.

I urge my colleagues to support the passage of the Kucinich-Tierney amendment allowed by the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, I rise in favor of the rule and the resolution and would like to share with my colleagues a brief outline of what this bill does and how it came forward to this floor.

We have had over 21 hearings, field hearings around the country, in our subcommittee, listening to Americans about the problems with regulations, and time and time again we heard from small businesses that they felt government was coming in and playing "gotcha." They would try to comply with all the different forms that they have to fill out. Oftentimes they found that that in itself was an enormous undertaking that costs them a great deal of money, took away their time from growing their small businesses.

One person who came and testified in Washington, Teresa Gearhart, who owns a small trucking company with her husband in Hope, Indiana, she told us that her company does have enough business to grow and create five new jobs next year, but they cannot create those new jobs because they cannot afford to fill out all of the paperwork that would go with those additional employees.

We also heard from Gary Bartlett and G.W. Bartlett Company in my district who sent us a ream of paperwork that he has to fill out for each of his employees.

At one of our field hearings in Minnesota, Bruce Goman who is in charge of a construction company said that he very consciously keeps the size of his small business under 50 employees because of all the Federal paperwork.

Well, Mr. Speaker, our committee looked at this, we passed a bill in the House of Congress in 1995, and it was signed by President Clinton, that mandated the Federal agencies to reduce their paperwork by 10 percent. Sadly, they failed to live up to that. In the first year after that bill was passed, the agencies only reduced their paperwork by 2.6 percent, and it is projected that last year, in 1997, it was only by 1.8 percent.

So our committee considered what can we do to seriously cut back on unnecessary Federal paperwork. We bring this bill to the floor that does four key things. First of all, it would put on the Internet a list of all of the different paperwork that is required by a small business to fill out in order to do their job. Many of the businesses who spoke with us told us they want to comply with Federal regulations, they just do not know all of the different requirements, all the forms they have to fill out, all the paperwork they have to keep at their job site. This would put it into one place, make it widely available to small businesses around the country on the Internet.

Second, it would offer small businesses compliance assistance instead of fines when they have a first-time violation. This is critical. So many times, even President Clinton has acknowledged, that agencies tend to play "gotcha" with small businesses where they come in and they say, well, we do not really see any real problem here, but you do not have this form filled out right, so that is a $750 fine. Or, you do not have this material data sheet, that is a $1,000 fine. Now for a small business, that can be the difference between survival and going out of business.

So our rule says that if they can correct that without causing any harm to the public health or safety, without undermining criminal enforcement, without causing any serious jeopardy to the public, then that company can go ahead and correct that mistake and not be fined because they were inadvertently not filling out Federal paperwork correctly.

The third provision says that we are going to establish a paperwork czar in each of the agencies, someone that small business will know is going to give them the answer from EPA or OSHA or the Treasury Department for every agency about the paperwork that they need to fill out as a small business and someone who will be an advocate within the agency to cut back on paperwork so that the agencies can start to meet their goal.

And fourthly, it will set up a multiagency task force to say how do we go further, how do we consolidate all of the different forms the Federal Government has so that we actually reduce the amount of paperwork that small businesses have?

I appreciate the efforts of my colleagues on the other side of the aisle to work with us on this bill. I urge my colleagues to support the resolution and the bill when it comes to the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, before I rise in support of an open rule for debate on H.R. 3310, I want to commend my colleague, the gentleman from Indiana (Mr. MCINTOSH) for his efforts in not only developing the rule but also in developing an attempt at a bipartisan relationship on the underlying substance. Mr. MCINTOSH has certainly been open to the many discussions that we have had to try to improve the bill.

During this process today, we are hopeful that we will continue to see

the kind of give and take here that can produce a better bill and can enable us to move this bill successfully out of the House. The gentleman from Massachusetts (Mr. TIERNEY) and I will be offering an amendment with that in mind.

In the meantime, as we go through this debate, I think Members of Congress need to look very carefully at the implication of this bill as it is currently formulated. It has been introduced under the title of paperwork reduction, yet it would have an enormous effect on the ability of Federal agencies to carry out and enforce the laws that have been passed by Congress. As it stands now, and I again say as it stands now, H.R. 3310 would grant mandatory waiver of civil fines to businesses that are first-time violators with a wide range of paperwork requirements.

Mr. Speaker, this language has been reviewed carefully by law enforcement officials in the Department of Justice, and they have raised a number of troubling issues. It is through information collection that law enforcement agencies can detect drug trafficking and money laundering. In turn, the Drug Enforcement Administration relies on written reports to ensure that controlled substances such as codeine and amphetamines are not diverted illegally. In order to carry out drug testing laws, the Department of Transportation requires reports from employers showing that their safety-sensitive employees have passed drug tests.

Under the bill's current language, DEA's oversight of dangerous drugs and the oversight of drug testing by DOT would be seriously undermined, and one of the reasons why it is important to have a rule where we can have open debate is to be able to bring into the record such testimony as was presented by the Federal Government in committee, where they talked about DOT requiring drug testing of safety-sensitive employees and various modes of transportation. When some entity involved in the drug testing process delays or deficiently reports the results of drug tests, it will delay the removal of employees from performing important safety functions.

Again, we would impose no fines for first-time violations even if the violation was intentional or careless and reckless. This was one of the concerns that was expressed in committee, and it is one of the concerns that needs to be fully aired in this discussion not only of the rule but in the underlying debate.

Furthermore, it has been stated that if a repair station fails to keep the necessary records showing that a required repair has been made to an aircraft, the Federal Aviation Administration generally will have to ground the aircraft for up to 5 days or longer until it can be shown that the aircraft was correctly repaired.

□ 1100

Grounding an aircraft could be extremely expensive for the airline as well as being disruptive for any passengers who had reservations on the flight in which the aircraft was to be used. Although the repair station may suffer contractually, we could not fine it for a first-time violation. Those remarks were made in committee, respecting the many difficulties which are inherent with the bill as it is drafted.

Now, Federal agencies believe that H.R. 3310, as it stands now, would interfere with the war on drugs, would undermine our ability to uncover criminal activity, would allow small businesses to evade drug testing statutes, and would harm our efforts to control illegal immigration.

The gentleman from Massachusetts (Mr. TIERNEY) and I will be introducing an amendment that is consistent with the underlying goals of this legislation to help small businesses with their paperwork requirements while protecting the health and safety of the public.

The Tierney-Kucinich amendment would ensure that Federal law enforcement agencies and others continue to have the tools they need to enforce many important statutes. It would do this by requiring all agencies to establish specific programs and policies to allow them to eliminate, delay, or reduce civil fines for first-time paperwork violations. It would mandate that agencies take a number of factors into account.

The amendment would ensure that paperwork reduction efforts are truly relevant to special circumstances. Agencies would be able to tailor their policies to the unique needs of the laws they are responsible to enforce, and congressional review of their policies would become a matter of course.

I urge my colleagues to support this open rule so that all of the implications of this bill can be fully and carefully examined. An open rule is important, Mr. Speaker, so that we can discuss the problems of a bill which currently grants mandatory waiver of civil fines to businesses that violate the law by failing to file reports, post OSHA notices in the workplace, or inform their communities about hazardous chemicals, so that we can talk about a bill which, in my estimation, currently would provide some protection for drug traffickers.

Law enforcement agencies which detect the drug trafficking and money laundering by using reports filed by businesses, we are told in the analysis that the Department of Justice did that.

This particular bill, as it is drafted, would cause problems in monitoring those important areas as well as encourage financial institutions to not report cash transactions that are more than $10,000.

Now, in the debate that will follow, we will go more into some of these details, but suffice it to say that the open rule is important.

I would like to conclude where I began these remarks on the rule, Mr. Speaker; and that is that I think that the gentleman from Indiana (Mr. MCINTOSH) has made a good-faith effort to attempt to come up with a bill that can be workable for all. I commend him on his efforts in that regard.

I have enjoyed the opportunity to work with the gentleman from Indiana (Mr. MCINTOSH). Again, I hope, as we go through this process today, we can find a way to improve this bill so that we can all come to an agreement.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from New York for yielding to me.

Mr. Speaker, let me just start by saying that the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Ohio (Mr. KUCINICH) have done an admirable job of working through this bill.

There is much in this bill as it stands that can be supported. I think that everybody understands that small business has to have some relief from time to time over what might be overzealous application of the law. The idea of publishing in the Federal Register on an annual basis a list of the requirements applicable to small business concerns makes sense. That is fully supported by everybody that was involved in the drafting of this bill.

Establishing an agency point of contact where each agency must have a point of contact, a liaison for small businesses to work with, so that there can be ready compliance. And understanding what is entailed by compliance is something that everybody can support, as is the fact of establishing a tax force on the feasibility of streamlining information collection requirements.

That is why we need an open rule, so that we can talk not just about the things that we might disagree with, but those things that we find in this bill that are, in fact, good as it stands.

There are, however, the problems, as the gentleman from Ohio (Mr. KUCINICH) noted, with one provision in that bill. I congratulate, again, the gentleman from Indiana (Mr. MCINTOSH) on his continual work with the gentleman from Ohio (Mr. KUCINICH) and with me and the committee to try to resolve those differences.

Everybody here wants to make sure that business, particularly small businesses, has understanding and gets a break when it is deserved. We just want to make sure it is not a disincentive to filing some very serious documentation that protects the safety and the health

and the welfare of the American people. I believe we can work toward that goal together through a good and open debate and through this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, this is an open rule. It is a good bill, and I urge its support.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCINNIS). Pursuant to House Resolution 396 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3310.

□ 1106

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3310) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, with Mr. CALVERT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, today the House takes up a bipartisan bill that I introduced with the gentleman from Ohio (Mr. KUCINICH), H.R. 3310, the Small Business Paperwork Reduction Act. This bill would give small businesses relief from government paperwork and agencies freedom from the "gotcha" techniques to which the President often refers.

As you know, Mr. Chairman, the burden of government paperwork is significant. It accounts for one-third of the total costs of all Federal regulations or about $225 billion a year. It took 6.7 million man-hours to complete all of the Federal paperwork in 1996, 6.7 million man-hours of work to complete government paperwork.

Now, our bill amends the Paperwork Reduction Act, which needs to be strengthened because the agencies have not met the goals to reducing paperwork set by the Paperwork Reduction Act of 1995.

The Office of Management and Budget reported to Congress that, instead of reaching the 10 percent goal in 1996, paperwork was only reduced across the agencies by 2.6 percent. It is estimated to have been reduced only by 1.8 percent in 1997, all this in spite of what President Clinton proclaimed as policy for his administration.

I would like to quote from a speech that the President gave in 1995 in Arlington, Virginia: We will stop playing "gotcha" with decent, honest business people who want to be good citizens. Compliance, not punishment should be our objective.

I wholeheartedly agree with the President on that objective, and our bill is a mechanism for furthering that goal.

At our first hearing the subcommittee held 3 weeks ago in which several small business owners spoke about their concerns and frustrations with government paperwork. Theresa Gearhart, who owns a small trucking company in Hope, Indiana, came and told us about how her company could grow and could create five new jobs next year. But they can't create those jobs because of all the paperwork that would come with them.

To demonstrate to my colleagues exactly how onerous that burden is, Gary Bartlett in my district sent the Federal paperwork that was required to be completed for one new hire. This stack of paperwork is all of the paperwork that is needed for one new hire. So if you have a company with 25 employees, they would have to complete the following paperwork. This is half of it, Mr. Chairman, and this is the other half. For 25 employees, that is what a small business has to fill out every year in government paperwork. I think it is outrageous. I think it is ridiculous.

Let me read to my colleagues just what some of those forms are. There is the insurance information for COBRA; the EEO–1 form listing race and gender of all employees, which then have to be kept hidden because you cannot use race and gender in making employment decisions; the employee evaluation, another document for EEOC; the disciplinary notices that may go out also have to be documented for EEOC; IRS tax payment form for automatic withdrawal of funds that have to be filled out weekly; Federal IRS withholding forms that have to be filled out every year; directory of new hires to comply with the Federal deadbeat dad law; form for Federal loans for mortgages; FAA loan form; Fannie Mae; COBRA notification explaining coverage options available when an employee quits his job; FMLA, Family Medical Leave Act forms; W–2 forms, one to the employee, and one must be kept on file for 8 years; employment application to comply with Federal standards for criminal and drug checks; receipt of safety glasses.

That is very important Federal paperwork that needs to be filled out for every employee. Form 15 is a form for badge timecards which have to be tracked to comply with the Fair Labor Standards Act. Then there is the IRS Form I–9 which has to be kept active for each employee and kept on file for the employee 3 years after they have been hired; the W–4 form, for new hires to comply, again, with the deadbeat dad law; health insurance form to keep track of COBRA; OSHA injury and illness report form; an employee handbook for exempt employees, another EEOC form; employee handbook for nonexempt employees, another EEOC form; employee's copy of COBRA, which has to be signed and kept on file.

This is the paperwork that goes along with every job that is created in America. If we do not do something to cut back on unnecessary paperwork, reduce the amount of forms that have to be filled out, we are making it more and more difficult for small businesses in this country to create new high-paying jobs.

Now, one of small business' greatest fears is that they may not know about all of these requirements. Mr. Bartlett happened to have kept them on his site and has an employee who keeps track of all of them. But when you only have four or five employees, or maybe 25 employees, you cannot afford to hire another person just to keep track of all these forms.

This is all in spite of the fact that some agencies have, indeed, made steps to reduce their paperwork and have, indeed, adopted policy that would waive fines for unintentional violations.

Gary Roberts, the owner of a small company which installs pipeline in Sulfur Springs, Indiana, told us that he was fined by OSHA $750 because of a hazardous communications program that was not on site.

All of his employees had been trained to comply with that hazardous communications program. A copy of it was in the main office that Mr. Roberts kept on file. But when the OSHA inspector came and they ran the copy out to the job site, he said, That is not good enough. Even though you have corrected the violation, you still have to pay $750. OSHA would not waive the fine in spite of President Clinton's directive not to play "gotcha".

Now, the consensus among the witnesses is that the small business owners genuinely want to comply with these regulations, they want to be good law-abiding citizens. They do not like filling out the form, but if that is what they are required to do, they will do it to meet their obligations under the law. But, frankly, they are overwhelmed, and they cannot do their job and run a business at the same time as

they are filling out all of this paperwork.

The legislation that we bring to the floor today will help correct that. It does four things, Mr. Chairman. It would require that a list of all of these regulations and any other regulation that a small business has to comply with will be put on the Internet so that every employer has access to that via computer and can know what is expected of them.

Second, it would offer small businesses compliance assistance rather than fines. Let me go back again to President Clinton's quote, because I think our bill does exactly what he wanted to do: We will stop playing "gotcha" with decent, honest, business people who want to be good citizens.

Compliance, not punishment, should be our objective. So we have incorporated in section 2 a waiver that says if a small business makes a mistake somewhere in this stack of forms, they did not fill out the box correctly, or they did not keep it up to date, but it was a harmless mistake that did not endanger public safety, did not threaten law enforcement activities, did not interfere with the Internal Revenue Service collection of taxes, that harmless mistake can be corrected, and they will not suffer a fine for doing that in their business.

□ 1115

I think it is common sense. I think it is what small businesses have been telling us they want government to do. They want to be good citizens, they want our help, but they do not want to feel that they have to live in fear of a government agency that will come in and play "gotcha" if they happen to make a mistake in one of these stacks of forms.

Third, it would establish a paperwork czar in each of the agencies, someone where small business can go and talk to about the paperwork that they are required to do; someone who is an advocate for small businesses within the agency. Maybe over at the EEOC they could tell them, look, we have about 5 different forms here that we ask these businesses to fill out; why do we not think about consolidating that and just have one form that people can fill out for their employees? That is what is needed within the agency, to be an advocate for these small businesses. Finally, a multi-agency task force to study how we can further streamline these requirements.

Mr. Chairman, it would be my fondest dream if we could take these stacks of regulations for 25 employees and say, we do not need half of this. The government can get rid of half of this stack, and we can get all the information we need to know from those small businesses.

Now, I am pleased to say that this bill does have bipartisan support. There is some controversy that has come up around section 2, the provision that focuses on the suspension of first-time paperwork violations, and I want to say I appreciate the concerns that the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Ohio (Mr. KUCINICH) have raised as we have tried to craft that provision. They have given us some insight into areas where we can actually do a better job in crafting that, and in the committee we made changes to that provision.

We created an exemption for if there were actual harm, an exception if there was a threat to public health and safety, an exception for any IRS form, and that, by the way, would include any form that is required under the Internal Revenue Code. There is also an exemption of the waiver for fines in cases where the fines would interfere or impede the detection of criminal activity. This exemption covers any case where the waiver of a fine would interfere with or impede the detection of an illegal drug transaction.

This bill now includes many of the factors that the gentleman from Ohio (Mr. KUCINICH) brought forward to our committee, and I want to thank him for his hard work on this bill as well. He deserves a lot of credit for it, he has given a lot of thought to this bill, and the factors that he asked us to include are frankly common sense factors for when the agency might decide that in spite of the fact we are requiring a waiver, this business does not deserve it, and we have written that into the bill.

They can say, no, you do not have 6 months to correct it, you only have 24 hours, because it is so important, it is a threat to public health and safety, or if it impedes their effort to detect criminal conduct, they can decide they are not going to waive a particular fine for a particular business.

One of the things that I think it is important to stress here, by the way, is that our bill does not exempt any small business from the requirement to fill out these forms; this provision merely says, if you make a mistake, you have 6 months to correct it. But the requirement still remains in place until we have a chance to go through the agencies form-by-form and reduce that paperwork.

Now, all of these exemptions will ensure that the bill and the waiver provision do not have any unintended or harmful consequences. As I have said, this bill is consistent with Vice President GORE's Reinventing Government Initiative and President Clinton's statement that I read earlier. In 1995, the President actually ordered the agencies to waive fines for small businesses so that they could correct their mistakes. Our bill builds on that initiative of the President, puts it into law, because frankly, the testimony we took at a lot of our field hearings and the hearings we had 3 weeks ago showed that the agencies are ignoring the President's directive and continuing to fine small businesses.

Mr. Chairman, I think it is critical that we protect our Nation's small businesses from these kinds of "gotcha" techniques. The bill retains all of the agency's enforcement powers, except for the civil fine. So if they find out there is a real threat that a law might be violated in a criminal action or a real threat or imminent threat to health and human safety, they can still come in with all of the criminal law powers that the agency has, they can still come in with all of the injunction relief that they have.

Mr. Chairman, many agencies today can actually shut down America's small business if they feel that a crime is being committed. This bill continues to give them all of those tools to make sure that a bad actor is not allowed off the hook. This bill does allow fines where there actually is harm that has been created.

So, Mr. Chairman, in conclusion, I would ask the Members of the House to pass the Small Business Paperwork Reduction Act today so that we can bring some sanity back into the process to go a long way toward helping our Nation's small businesses deal with the excessive paperwork, get back to their real business of creating jobs for American workers.

Mr. Chairman, I urge my colleagues to support this bipartisan effort to reduce the burden of government paperwork for all of our Nation's small businesses.

Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that much of what the gentleman from Indiana (Mr. MCINTOSH) says is absolutely accurate, and I want to acknowledge his fine efforts and those of the gentleman from Ohio (Mr. KUCINICH) in trying to work at the committee level and the subcommittee level to make this a bill that would, in fact, be beneficial to the small businesses of this country. Much has been done in that regard and in that direction.

When the gentleman from Indiana (Mr. MCINTOSH), the chairman of the subcommittee, says that the President wanted to end "gotcha" politics or "gotcha" efforts in administration, he is absolutely right. But unfortunately, this bill has some major flaws that still exist that do not do anything with regard to moving that process along.

Let me initially say that there is nothing, and I think Mr. MCINTOSH acknowledges this, there is nothing that reduces paperwork in the current bill. There will be no particular small business, as a result of this legislation, should it pass, that will have to file one less piece of paper than it had to

the day before it passed. What happens here is we have 3 out of 4 provisions of this bill that are, in fact, very good and very agreeable.

It makes sense that it has to be published in the Federal Register on an annual basis a list of the requirements applicable to small business concerns. No small business should have to wonder what its obligations are, what paperwork has to be filed; they should be able to readily go to the register and see exactly what the obligations are.

There should be one point of contact within every agency a small business can go to to find out what must be done to be in compliance with regard to the requirements of that particular agency, and that is a part of this bill that we can all get behind without any disagreement.

The idea of establishing a task force on feasibility of streamlining information and collection requirements is something that the entire committee, and in fact, the gentleman from Ohio (Mr. KUCINICH) worked very hard with the gentleman from Indiana (Mr. McIntosh) and others on that provision, so that we have a lot of this bill that makes absolute and perfect sense.

However, there are corrections that have to be made. The administration does not want a "gotcha" type of atmosphere out there, particularly with small business. It perfectly well understands the contribution that is made to our economy by small business, as does the gentleman from Ohio (Mr. KUCINICH), as do I, as do other members of the committee and subcommittee, but it should be noted in its present form, Mr. Chairman, in its present form, the administration strongly opposes H.R. 3310, because it believes it would waive fines for first-time violators of Federal information collection requirements and that that waiver provision could seriously hamper the agency's ability to ensure safety, protect the environment, detect criminal activity, and carry out a number of other statutory responsibilities.

In fact, the statement of the administration policy issued, Mr. Chairman, says that if H.R. 3310 were presented to the President in its current form, the Attorney General, the Secretary of Transportation, the Secretary of Labor, the Administrator of the Environmental Protection Agency would all recommend that the President veto this bill.

Current law already requires agencies to help first-time small business violators who make a good faith effort to comply. The primary beneficiaries of this law as it is currently written, Mr. Chairman, would appear to be those who do not act in good faith and those who intentionally and willfully violate the applicable regulations.

That is not what I believe this committee has in mind, and it is not what people in small business would want. They want fair competition. They want to know that when they are obligated to file some piece of paper or a document for safety reasons, for health reasons, for environmental reasons, that, in fact, their competitor also has to meet that requirement.

This particular law, as it is currently written, is an absolute disincentive to people complying with their obligations to provide information, whether it is about the environment, whether it is about safety, whether it is about pensions, and this is what we have an objection to, and the gentleman from Ohio (Mr. KUCINICH) and I will present an amendment to this bill at a later point this morning.

Mr. Chairman, if one reads carefully the bill language, and the gentleman from Indiana (Mr. MCINTOSH) referred to an attempt by the majority here to correct some of the provisions of the bill, it still says that failure to impose a fine would have to be filed in order for there to not be a waiver. Well, many times the detection of a criminal activity does not require, under the fine or the failure to impose a fine, but in fact whether or not the paperwork was filed, so it should be the failure of filing the required documentation that is a consideration, not whether or not failing to impose a fine would in any way impede the detection of a criminal activity.

They also talk about the problem of having an imminent or substantial danger to the public, a violation present that would be a factor in that, but the fact of the matter is, proving what is imminent or proving what is substantial is a cloudy area that leads everyone to the belief that they can get away with not filing any of this documentation for however long it takes somebody to find them, to discover the situation, and then to point out the violation, and then only the second time would they stand any risk. So that disincentive impacts badly on all small business as well as the public in general, and the people that are working within these companies.

Mr. Chairman, H.R. 3310 as currently constructed prohibits agencies from assessing civil fines for the first-time, information-related violations. It removes agency discretion. It actually creates a safe haven for willful, substantial and long-standing violations. It would have a wide-ranging and substantive negative effect, because it does not merely address technical violations and reporting requirements, it applies to the failure to distribute important information to the public, such as warning consumers of the dangers of a product or prescription drugs, educating employees on how to handle hazardous materials, and adequately disclosing a broker's disciplinary history to an investor. It would weaken the incentive to comply with the law because small businesses would be sure that they would not be fined even if they were caught, and it would put complying businesses at a competitive disadvantage.

The exemptions that the gentleman from Indiana (Mr. MCINTOSH) states that he did put in the law are still inadequate to protect the public. They would prohibit fines for most first-time violations unless the agency met some very extensive burdens of proof that the violation actually caused serious harm, that the failure to fine impeded the detection of criminal activity. These are standards that simply raise the bar so high that nobody will be encouraged to meet their requirement to file and they will know that they can get away in the first instance.

Mr. TIERNEY. Mr. Chairman, I yield 8 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time. It has been a pleasure to work with both of my colleagues in trying to make this a better bill.

This bill that we are considering is the product of intensive bipartisan effort, and I think that since the beginning of our joint work on the bill, we have to realize that we have been focused on 2 goals: first, to help small businesses comply with paperwork requirements so that small business owners can devote more time to creating jobs for our people; and second, to make sure that the health and safety of the public and the integrity of environmental laws, worker protection and consumer protection laws are upheld.

I think we are all in agreement that small business is the backbone of our country, that small business creates the vast majority of new jobs, that small business owners work hard to build their communities; that small business needs to spend their time creating jobs, and it is the duty of the Federal Government to streamline paperwork requirements to allow small business to focus on job creation and economic development. We know that most small businesses obey the law. They are good Americans, I salute them, and I agree with both sides of the aisle, I think we are in agreement that we are both for small business.

But since the outset of this bill, we knew that the bill would go through improvements as we gain more and more information. I made this very clear in every statement that I made, both public and private, about the bill. In fact, every time that the gentleman from Massachusetts (Mr. TIERNEY) and I have consulted with agencies about the impact of the bill, we have made changes that have improved the legislation.

□ 1130

In turn, after hearing from small business owners recently, we have come up with more improvements in

the bill that are consistent with our goals.

Based on the results of a hearing last Tuesday, we now have the benefit of the experience of a wide range of executive agencies, including the U.S. Department of Justice. All of these agencies, to one extent or the other, have implemented programs to help small businesses comply with their paperwork requirements.

At the same time, all of them are required to enforce a number of statutes. Oftentimes the ability of these agencies to protect the public interest depends, depends on the information that they collect through paperwork documents.

It has now become clear that one provision of the current draft of the bill, the mandatory waiver of civil fines, would in fact have the unintended consequence of making it more difficult to protect the health and safety of the public, of workers, of consumers, of all of those who are protected by law enforcement officials.

That, of course, was never my intent as a cosponsor, and when I heard this testimony from the U.S. Department of Justice, I have to say, Mr. Chairman, it gave me pause, because what the U.S. Department of Justice said was, "The civil penalty waiver would have adverse effects that I am confident neither you nor any of the bill's other sponsors would intend. As I will describe, this position would interfere with the war on drugs, hinder efforts to control illegal immigration, undermine safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut controls on fraud against consumers and the United States."

The Department of Justice said that this result would put law-abiding businesses at an unfair competitive disadvantage, and could endanger the public. They go on to say, and I think it is critical that this be introduced into the RECORD in this debate, that the existing statutes and policies of the administration, and in particular, the President's memorandum of April 21, 1995, where he asked all agencies to reduce small business reporting requirements and to develop policies to modify or waive penalties for small businesses when a violation is corrected within a time period appropriate to the violation in question, and in addition to that, the Department of Justice's current policies, where they say that the components with regulatory functions provide for the waiver of civil penalties in appropriate circumstances, we have policies right now that respect small business.

We need to go further, but the Department of Justice has said about this bill, as it is currently constituted, that we have to recognize that we have statutes and policies appropriate to recognize a good-faith effort to comply with the law, the impact of civil penalties on small businesses and other factors that may appropriately be considered in insisting on civil penalties. This policy compliments ongoing agency efforts specifically designed to help small businesses understand and comply with the law.

The Department of Justice says, and I agree, that we must continue our search for effective ways to streamline and simplify reporting and recordkeeping requirements that apply to small businesses. But efforts to streamline reporting need not undermine law enforcement or regulatory safeguards that protect the public from safety, health, or environmental hazards.

After hearing this, the gentleman from Massachusetts (Mr. TIERNEY) and I drafted an amendment which we think will meet the needs of small business for relief, and at the same time provide continued protections for the people of this country with respect to public health, public safety, and the environment.

I believe that we have provided an opportunity to produce a bill which can be agreed on, not only on both sides of the aisle, but will get the approval of the administration. But lacking that, we are missing an opportunity to be of service to small business.

I want to commend the efforts of the gentleman from Indiana (Mr. MCINTOSH), the chairman, to try to develop a better bill. We are not there just yet, Mr. Chairman, but we can keep trying. We have another hour.

I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for the leadership he has shown on repeatedly insisting on protecting the rights of small business, at the same time regarding our obligation for the safety, the health, and the environment of the people of this country.

Mr. MCINTOSH. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, let me go through in some detail how this provision works on the suspension of fines for first-time violations.

Under the current law, what happens is paperwork is not filed or there is an error in the way the paperwork is filled out, or some other violation of the form not being in the right place at the right time. It is discovered by an agency, usually somebody who is coming in and inspecting a small business. Then there is a civil penalty. They are either written up on the spot or they receive in the mail a notice that they owe the government $750, $1,000, $2,000. That is the current law.

Now, what happens under our revision to the law has been greatly misunderstood by the agencies. When we hear about this "might impede criminal violations, it might cause a threat to health and safety," I hear those all the time when we talk about government regulations.

Frankly, the agencies are a lot like traffic cops, where it is a lot easier to give out a speeding ticket than it is to apprehend a criminal who has been robbing somebody's house. So they like to give out speeding tickets, but they are a little bit nervous about going after the armed criminal who just robbed somebody's house.

But frankly, my preference would be that the agencies go after the bad guys and spend a little less time harassing innocent small businesses. So we have written a provision that would take care of this. First of all, if the paperwork is not filed or filed incorrectly, or not on site where it should be, it is discovered by the agency, then they have to go through a series of decisions before they assess a civil penalty.

First, does the violation cause actual harm? In that case there is a civil penalty, because if it has actually caused harm in some way, it is only fair that that business be penalized because of that harm. The failure to fill out the paperwork was a grave error and they should have taken care of it.

Second, if it threatens harm. So if there is no actual harm that occurred, but it might have caused actual harm in an imminent dangerous situation, then there is a civil penalty.

The third decision is, does it involve the Internal Revenue Act? We have explicitly exempted all of the paperwork that is required under the Internal Revenue laws of the United States. So there would be a civil penalty.

By the way, much has been made in the discussion of this bill about the $10,000 cash transaction that is often used for laundering drug money. But frankly, there is no basis for saying that that transaction would not be covered under the civil penalties.

I happen to have brought with me one of the forms that is required to be filled out when you have cash payments over $10,000. It is Form 8300. It is issued by the Internal Revenue Service. Every bank has to fill it out if they get a deposit over $10,000. It has an OMB circular number. Because of this provision that the Internal Revenue laws are exempt from our waiver provision, if you fail to fill this out, you are going to be subject to a civil penalty.

The fourth is if it interferes with the detection of criminal activity, which, by the way, is the reason they have people fill out this $10,000 form, because money launderers tend to drop large amounts of cash into a bank and then withdraw it quickly. On that ground, you would still pay a civil penalty if you fail to fill out the form.

Finally, if a violation is not corrected within 6 months, or if it is a serious violation, within 24 hours, then there is a civil penalty.

In every case, all we are saying is we are waiving the fine and allowing people time to correct the error. But we still have the injunctive relief, we still

have the ability to come in and, if there is criminal fraud involved, say they are going to be subject to criminal penalties.

I was, frankly, a little disturbed to hear from the agencies that they are opposed to this bill. Then I went back and looked at their records under the paperwork reduction policy.

I noticed the Department of Labor, which opposes this bill, has failed to meet its 10 percent goal in both years. They only reduced it by 9½ percent in 1996 and by 8 percent in 1997.

The Department of Transportation, it has a somewhat mixed record. It actually exceeded its goal and reached 27 percent reduction in 1996, but then in 1997 something must have gone haywire, and they have increased paperwork by 32 percent, for a net increase from that agency.

The Department of Justice initially did a terrible job, and in 1996 only reduced paperwork by 1.4 percent. Last year they did a lot better. I will give them credit for that. They were at 14.5 percent reduction, but they still failed to meet the 20 percent goal.

EPA, the final agency listed in the statement of administration policy, they have actually increased paperwork in both years. It went up 4.5 percent in 1996 and 6.9 percent in 1997. So these agencies, it does not surprise me that they are advising the President that this is not a good bill.

Fortunately, and the President is in Africa, when he gets back he will have a chance to review the record and realize that what we are doing is putting into law what he said he wanted to do back in 1995.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, that chart that says "current law" it seems to me is quite misleading, because nowhere in that chart does the gentleman indicate that just 2 years ago the Congress passed, and we all voted for it and heralded it as a great improvement, the Small Business Regulatory Enforcement Fairness Act.

That law, which is called SBREFA, was passed with strong bipartisan support. It calls on the agencies to use discretion not to impose civil penalties where there are other circumstances that ought to be factored in. It seems to me that should be reflected in the reality of current law.

Mr. McINTOSH. In fact, Mr. Chairman, the gentleman is correct, we did pass SBREFA 2 years ago. We gave the agencies discretion, as the gentleman mentioned, discretion to adopt policies that would allow a waiver of civil penalty. But as case after case has demonstrated, the agencies are refusing to use that discretion. They continue to impose the civil penalties.

The key difference between SBREFA and our law is that we take it the next step. We say, by right the small agencies can correct the mistakes, unless it causes harm, threatens to cause harm, violates the Internal Revenue Service, would impede criminal detection, or is not corrected in 6 months.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the statement was made that in case after case the agencies have not gone along with the discretion the Congress required them to use before they imposed civil penalties. I do not see how the gentleman can make that statement.

The law specifically requires each agency to file with the Congress whether they have employed this discretionary authority or not. The reports are due in the next couple of days. I do not think the gentleman from Indiana (Mr. McINTOSH) has had any advance notice of it. He is making statements for which he has no backing, no authority. We ought to look at the reports from the administration on the exercise of SBREFA.

Mr. TIERNEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, first of all, it should be noted again, having looked at all this paperwork and posters that were put up, that there is no paperwork reduction even contemplated in H.R. 3310 as it is currently constructed. The only people that will now have to file less paperwork under this bill are people that said they want to be violating the law.

Law-abiding businesses are still going to have to file every piece of paper they ever filed, so that is not the issue. The issue is whether or not there will be a disincentive to file, and whether or not some businesses, law-abiding businesses, will be put at a disadvantage.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Chairman, I rise today in opposition to H.R. 3310, the Small Business Paperwork Reduction Act, as it is currently constituted. This legislation is not only not needed and is unnecessary, but could in fact actually make the American workplace more dangerous than it currently is.

The United States Environmental Protection Agency states that this bill does not constitute a viable approach to addressing small business compliance with needed safety and health regulations. In fact, this bill would create disincentives for voluntary compliance, compromise consumer protection laws, and worker and passenger safety.

The AFL–CIO states this bill will weaken the pension safeguards currently in place to protect the American worker.

□ 1145

I agree with all of those who say that we must work to ensure that workers' retirement and health benefits will be there when we need them.

Information collection requirements are essential to a wide variety of protections on which we all must rely. A blanket provision waiving civil penalties for first-time violators could put the health and safety of our families and our communities at risk.

This bill is the start of a movement where the biggest and most powerful want more than what is offered. We must work together to protect the basic rights of our Democratic community.

I am reminded of something that A. Philip Randolph once said when he said that "a community is only democratic when the humblest and weakest person can enjoy the highest civil, economic and social rights that the biggest and most powerful possess."

Therefore, Mr. Chairman, I urge my colleagues to vote against this bill, which would instill substantive negative effects, hamper law enforcement, jeopardize human safety and health and environmental protection for working families.

Mr. TIERNEY. Mr. Chairman, would you instruct us as to how much time each respective side has remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. TIERNEY) has 13½ minutes remaining. The gentleman from Indiana (Mr. McINTOSH) has 9 minutes remaining.

Mr. TIERNEY. Mr. Chairman, I reserve the balance of my time.

Mr. McINTOSH. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in response to the query of the gentleman from California (Mr. WAXMAN) about do we see a problem, I would just mention to the gentleman the testimony we heard in subcommittee from Gary Roberts, the owner of a small company that installs pipelines in Sulfur Springs, Indiana. He was fined last May $750. This is after SBREFA had been passed and after OSHA was supposed to have adopted a policy in these areas. He had a hazardous communications program in his home office. His employees had been trained on that. When the inspector showed up at the job site, they brought the communications program to show the inspector right there as he was inspecting the job site, and yet Mr. ROBERTS was fined $750.

Now, I think there clearly is a problem. By the way, I do not think filling out this much paperwork for 12 employees has anything to do with democratic process. I am a big supporter of the democratic process, but it does not require this much paperwork for us to engage in the democratic process in this country.

Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would point out that in fact we were all present at the subcommittee hearings when the witnesses came in, and could distinctly hear representatives from OSHA saying that they have in fact now in place a policy under SBREFA and they are, in fact, down to zero occasions when they fine somebody a civil penalty for failing to post or put paperwork in where it is appropriate. So I think we should have all the information when we move forward.

Mr. Chairman, I yield 5½ minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding me this time.

Mr. Chairman, I think what we have before us today is a solution in search of a problem. If we listen to the gentleman from Indiana (Mr. MCINTOSH), he is raising concerns that we have a paperwork problem for small business. We all are concerned about the paperwork burden on small businesses, and that is why the Congress responded just 2 years ago by adopting the Small Business Regulatory Enforcement Fairness Act or what is called SBREFA. This was passed with strong bipartisan support. We all heralded it as a way to reduce that paperwork burden. It called on the agencies to use discretion and not to impose a fine if there was some inadvertence in filing the necessary paperwork that was required by law.

We have seen other reforms by both Democratic and Republican Congresses, and we have seen this administration attempt to reinvent government so that it would be more efficient and fairer.

But what we have in this bill before us today is not a reduction in the amount of paperwork that would be imposed on small businesses but an excuse for small businesses not to file the paperwork required of them.

The administration witnesses from the Department of Justice and the Environmental Protection Agency and other areas of the Federal Government came in and said that what this would do would encourage some small businesses to intentionally refuse to file the paperwork required of them, and that could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut the controls on fraud against consumers and the United States. That seems to me a risk not worth taking if that will be the result of this legislation.

The legislation says not that we use discretion to not impose a civil penalty. The legislation that the gentleman from Indiana is proposing says that under no circumstances will we ever impose a fine for failure to file the paperwork on the first offense. And that just says no matter what, we are not going to have a fine.

Well, if one is laundering money and there is a requirement to report $10,000 transactions and an institution is involved in some skullduggery, they will decide that it will be in their interest not to file that information. They know they have a safe harbor, they can never be fined or anyone take offense at their failure to abide by that law.

Now, there are times when health and safety can be affected, but we are not going to know whether health and safety will be affected unless the paperwork has been filed that might indicate that there is a drug for which there are side effects or there is lead in a house that is being sold. But the seller, small business seller, does not disclose that fact, as is required by the law, because they do not want to discourage the purchaser from going ahead and buying the property. They know that they can get away without making these disclosures because of this legislation.

We are going to have before us an amendment by the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) that I think is a far more reasonable approach. It will say, in effect, that we should not go and impose a fine on small businesses if their inadvertence to file the paperwork was technical or inadvertent. If it involved willful or criminal conduct, we are not going to excuse that paperwork requirement. Or if they threaten to cause harm to health and safety of the public, consumers, investors, workers, or pension programs or the environment, we are not going to waive it. But if there were not that kind of matter, but in fact a good-faith effort to comply and rectify the violations, then there is no reason to have a civil penalty imposed.

There is going to be another amendment that we will have later today, and that is an amendment offered by the gentleman from Indiana (Mr. MCINTOSH), and it is going to say that we will prohibit the States from enforcing their own regulatory requirements. Now, all the Members of Congress who have come to this floor and extolled State's rights certainly ought to be opposing that amendment which will tell the States we are going to take away their ability to enforce their own laws and Federal laws and make all States abide by a one-size-fits-all approach that we in Washington will impose upon them.

Mr. Chairman, when we get into the amendment process, I would urge Members to support the Kucinich-Tierney amendment to make this bill worthwhile. If that amendment fails, then I want to point out that the administration is threatening a veto. In addition to that, the bill is opposed by the labor movement because they are worried about what it is going to do to workers, by environmentalists, by consumer advocates, by a wide range of groups that fear that this bill that sounds like it is doing something for small business is going to in fact do a great deal of harm to the American people.

Mr. TIERNEY. Mr. Chairman I reserve the balance of my time.

Mr. MCINTOSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before yielding to my distinguished colleague, the gentleman from Missouri (Mr. TALENT) the chairman of the Committee on Small Business, let me point out, and I understand how in debate we sometimes exaggerate things around here, but as I showed all of our colleagues, what the gentleman from California (Mr. WAXMAN) said was simply not true: that automatically we would waive all fines under my bill.

Mr. Chairman, if there is a serious threat of harm to public health, if there is actual harm. And all of these provisions have been written into the bill, and in spite of the fact that they are there in black and white in plain English, the gentleman from California continues to say the same lines that he knows are not true, over and over again.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Missouri (Mr. TALENT) chairman of the Committee on Small Business.

Mr. TALENT. Mr. Chairman, I thank the gentleman from Indiana (Mr. MCINTOSH) for yielding me this time.

Mr. Chairman, the Committee on Small Business had concurrent jurisdiction over this bill, and I was happy to waive it in part because we have had so many hearings on this and these kinds of issues that I thought it really was not worth additional hearings or deliberations on the part of the committee, because to me, this just seems to me a very simple thing. Do we want to stand with and for the small businesspeople of this country against one of the things that irks them and demoralizes them and costs them the most, which is useless kind of government paperwork and arbitrary kinds of fines? Or do we want to stand with the government, with big government, with the regulatory state that believes that unless these people are minutely watched in all they do, they are going to go out and do all of these terrible things? It is a question of where we put our faith.

Mr. Chairman, all the bill says is we do not want agencies to fine small businesspeople for paperwork violations that do not matter to anything, that do not matter to the interest of the agency or public health and safety. They can check the paperwork violation, they can inspect them and tell

them to do it over again and tell them to do it over in the future, but they cannot fine them.

Mr. Chairman, I do not want the agencies spending their enforcement time and effort tracking down people like Mr. Pat Caden of Caden's Restaurant in Tacoma, Washington, who was fined $1,000 because he had one missing material safety data sheet on handsoap, which he offered to provide by fax in 2 minutes. I want OSHA worrying about safety. I do not want them worrying about material safety data sheets that do not have anything to do with safety and that nobody even reads outside the context of an inspection.

Mr. Chairman, I do not want small businesspeople to feel like in order to do business in this country they have to pay protection to agencies, because that is what it amounts to. They come into the workplace and hit businesspeople with paperwork violations because that is easy for them to find. They pay the agencies $1,000 or $2,000.

Mr. Chairman, I hate to stop when I am in the middle of "catharting." Mr. Chairman, businesses pay them fines of $1,000 or $2,000 and they go away for a while, just for a while. It is like the mob. They will leave people alone if they pay them protection. That is what this bill is about.

The argument on the other side seems to be that there are drug dealers out there, people smuggling in thousands and thousands of illegal immigrants who this bill will unleash, I suppose on the assumption that the possibility that the government might hit them with a fine for a paperwork violation is currently deterring them from selling millions and millions of dollars worth of illegal drugs on the black market or bringing in thousands and thousands of immigrants; that, Mr. Chairman, these people who are not deterred by the huge felony penalty for doing these things might be deterred by the prospect that INS might come on their workplace and fine them for a meaningless paperwork violation.

Again, we talk about the bill being a "solution in search of a problem." The arguments against it are rationalization. It is just a question of where one stands. I would say that these kinds of bills do highlight the deep philosophical divisions in the House.

My faith is with the small businesspeople in this country, the private sector in the country, 99 percent of whom are trying to do good things in their communities for good reasons. All we are saying is, look, do not fine them for meaningless things. Agencies should concentrate their energies on health and safety or social justice in the workplace or environmental quality, and let businesses concentrate their efforts on building jobs and building the economic infrastructure in their communities and everybody will be better off.

□ 1200

Mr. TIERNEY. Mr. Chairman, I yield myself 30 seconds.

Let me just say that this idea, that this one side is in favor of small business and the other side is against small business, is ludicrous when we think of the time and the energy that went in, with the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Ohio (Mr. KUCINICH) working diligently to try to find some common ground so that small business could in fact get the benefit of this law.

I will speak at greater length about the particulars of it.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I was just shocked by the comments of the last speaker, because he said that we want to extol the virtues of small business, and we all agree to that, but then described Federal agencies, government employees that are trying to enforce the laws as equivalent to the mob. He said they are out for protection money. Is that the way we view government? It just seems to me an opening, a window to the mentality that would present this kind of legislation to us.

There are willful, intentional, reckless violations of the law that will not be in any way prosecuted under this legislation, because if it is a first-time offense, even if it were reckless and willful, then it would not be enforced.

How does my colleague justify doing that sort of thing, even if it is a reckless, willful violation of filing the report that indicates there is a hazard that workers may be exposed to? How can he justify that?

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. McINTOSH. Mr. Chairman, in fact, we do not justify it because the bill does not allow that. It still requires people to fill out the paperwork. What it says is, if they can correct it and it causes no harm, they will not be zapped with a civil fine.

Mr. WAXMAN. Mr. Chairman, that is not what the bill says. The bill says there will be a safe harbor, that there may not be, under any circumstance, the imposition of a money penalty for a first-time violation even if it were willful.

I yield to the gentleman to explain why he would do that.

Mr. McINTOSH. Well, because in addition to a civil penalty, the agencies have the ability to enjoin the business from further conducting its affairs. That is not affected by our bill. They have criminal provisions if there is fraud or willful violation.

Mr. WAXMAN. Let me say, that is not adequate. The reason it is not adequate is because they are going to impose a worse scenario for small businesses if they expect the agency to come and get injunctions, if it is a drug company to shut them down. What is involved in getting this paperwork is to know if there are problems, and then try to clear them up, not give a safe harbor for those who willfully violate the law.

Mr. MCINTOSH. Mr. Chairman, I yield myself 1½ minutes.

Let me say very clearly, there is a huge difference here, because I think it may have been the gentleman from Massachusetts (Mr. TIERNEY) or the gentleman from Ohio (Mr. KUCINICH) who pointed out what all of us recognize, that probably 99 percent of America's small businesses are good actors; they are trying to comply, they are not willfully not following the rules and filling out the paper work.

In the case of the 1 percent who are bad actors, who are trying to commit a crime, trying to ignore the law, I think the agency should come in and hit them with whatever it takes to get them to comply with the law.

The real difference here is the view of small businesses, because the coalition that has been for the special interests here in Washington to oppose this bill thinks that what we do is give them a get-out-of-jail-free card.

I quote from an e-mail that they circulated this morning,

> They think small businesses are criminals, and that is, why they are opposing this bill is they think that the Nation's small businesses are criminals. We don't believe that.

And that is what the gentleman from Missouri (Mr. TALENT) was saying so emphatically. We think the vast majority of small businesses in this country are good, decent people who are trying to get a job done, trying to hire people and create jobs in their economy, and they do not deserve to be zapped by Federal agencies when they make an innocent mistake. That is what the essence of this bill is all about.

Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield myself 2½ minutes.

Let me just say to the gentleman from Indiana (Mr. MCINTOSH) that this debate was going on rather high ground for a while as we were talking about some matters of disagreement. We had a speaker come down and throw in some bombast, and I think it has sort of taken us in a different direction.

Personally, I represented small businesses for 20 years. I was a small business. I was president of the local Chamber of Commerce. There is no belief in my heart or soul that small businesses, on the whole, that people try to comply with the law, but I try to recognize fully, Mr. Chairman, that there are those who do not.

My colleague's bill does nothing for that law-abiding small business person

who continues to comply with paperwork filing requirements because they, first of all, do not reduce the amount of paperwork to be filed. And if we want to do that, then why do we not get our committee to start sitting down and sifting through those blocks of paper and weeding out those that should not be filed any longer and those that should be consolidated? That would be a worthwhile effort.

But to have an absolute disincentive for those who do not want to be a law-abiding business and to put the law-abiding businesses at a disadvantage is not the way to proceed. What we ought to do is make sure the agencies exercise their discretion, that those who are not willful violators, those who do not impose a serious harm to the public good or to the environment, let them deal with it in that way and let them use their discretion. Which is exactly what SBREFA does, which is what our proposed amendment demands that they do is set in place a policy to make sure that those businesses that deserve a break get a break, but reserving the ability to fine those that need to be fined in order to have compliance so that good law-abiding businesses will not be put at a disadvantage.

The language of 3310, as it is currently constructed, simply does not do that. It says that before they can have a fine, they have to show that the failure to impose the fine would impede detection of a criminal activity. Well, it would not be the failure to impose a fine that would in fact impede detection of criminal activity; it would be the failure to file the requisite paperwork. So now they have given them a disincentive on that basis.

They talk about occasions where there is actual harm that they would then not be able to give a waiver. But what about the case where there is a propensity for actual harm, where the failure to file work leads us to believe there will be resulting harm, but it may not have happened yet, but we want to make sure it does not happen?

My colleagues talk about threatening imminent and substantial, dangerous harm, but those are hard burdens for an agency to prove before it can go in there and ask somebody who is integrally involved and knowledgeable about business, Mr. Chairman. And let me tell my colleagues, given the choice of having to make my case that my mistake on paperwork was inadvertent and failure to do that might be a civil penalty, I will take that any day, besides them coming down with very expensive legal proceedings on an injunction or a criminal action. That is when it gets onerous.

That is when agencies go well beyond their bounds, and that is where the gentleman from Ohio (Mr. KUCINICH) and I have an amendment that tries to address that so that small businesses and law-abiding business can move in the proper direction.

Mr. MCINTOSH. Mr. Chairman, we have no further speakers on my side. I would like to reserve the balance of our time for closing if the gentleman from Massachusetts (Mr. TIERNEY) has any on his side.

Mr. TIERNEY. Mr. Chairman, I do have some speakers. Would the Chair please instruct us as to how much time is left on this side.

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Massachusetts has 2¾ minutes remaining.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Chairman, I just want to commend the gentleman here, trying to change this bill. I was an original cosponsor. I believe in paperwork reduction. But what this bill would do, it would put in danger small businesses.

In my district, 90 people, including the president of the company, just lost their pension. Now, that happened even with the controls we have today. There is only one document really that gets filed on 401(k)s, which was the only pension these folks had, and that is Form 5500 from the Labor Department to find out if your 401(k) is really getting the money that it is supposed to be getting.

Under this bill, if you keep the original text, those workers are completely exposed. The biggest loser in this loss of the 401(k)? The president of the company, the head guy of the small business, because he had the biggest investment there.

This is not pro small business. This would support people who want to skirt and avoid the law and, frankly, would leave working families and small businessmen vulnerable in so many cases, so many cases where they buy products, where they have responsibilities to carry out for consumers.

Mr. TIERNEY. Mr. Chairman, I reserve the balance of my time.

Mr. MCINTOSH. Mr. Chairman, I understand that when there are no other speakers, I have the right to close. Is that correct? Which I am willing to do now if the gentleman is finished.

Mr. TIERNEY. Mr. Chairman, I have an additional speaker. But my colleague still has time left, I believe.

The CHAIRMAN pro tempore. The gentleman from Indiana may reserve for closing. Is that the intent of the gentleman?

Mr. MCINTOSH. Yes, it is, Mr. Chairman. I am prepared to close now if the gentleman is ready to proceed with amendments.

Mr. TIERNEY. We have one more speaker, if we might, Mr. Chairman.

Mr. Chairman, I yield the balance of the time to the gentleman from Ohio (Mr. KUCINICH).

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized for 1¾ minutes.

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me the time.

I do not think there is anyone in this Chamber who believes other than that most small businesses are law abiding. And the earlier reference that those who are standing up for environmental protections, workplace protections, fighting money laundering, and promoting drug testing somehow believe that small businesses represent a criminal class is fairly ridiculous, and it is unfortunate to have that kind of reference in what has been otherwise an important debate.

The problem with the bill is that, and this is a central part that has to be remembered, is the process of agency determination only kicks in if a violation has been discovered, because a business which has failed to file paperwork, that violation may never be discovered.

This is a matter of what we do not know may very well hurt us. It is not useless paperwork to require filings that have to do with drug testing, food safety, to avoid stock fraud, to stop money laundering, to promote workplace safety, to promote air passenger safety, to promote a safe environment. I mean, this is part of the responsibility of the government. This is our government, the government of the people; and one of the things we have to do is to promote for the general welfare of the people. That is why we are here.

And so the gentleman from Massachusetts (Mr. TIERNEY) and I will be offering an amendment which seeks to install in this legislation that essential imperative of our responsibility as government officials.

The violations that are discussed here, once they are uncovered, the onus is still on the agency to prove that one of five conditions has been met in order for the business to be fined. This bill would tie the hands of law enforcement in this country, and I urge its rejection.

The CHAIRMAN pro tempore. The gentleman from Indiana is recognized for closing for 2½ minutes.

Mr. MCINTOSH. Mr. Chairman, in closing, let me return to the tone that we had at the beginning of this debate because I agree with the gentleman from Massachusetts (Mr. TIERNEY) that is a helpful one.

I do want to thank the gentleman from Massachusetts and the gentleman from Ohio for their input in this bill at the subcommittee and committee levels. We will not be able to have an exact meeting of the minds today on the amendment that they are offering, but some of the points that they raised have been very helpful in crafting this bill.

For example, Mr. GEJDENSON'S concern that perhaps 401(k) programs would be exposed because of this bill, I would reassure him that looking at

section B(iii) that says, "the violation is a violation of an Internal Revenue law or a law concerning the assessment of collection of any tax debt revenue or receipt." Well, section 401(k) is section 401(k) of the Internal Revenue Code; and so that paperwork would continue to be fully covered even under the civil fine provisions.

Let me close, Mr. Chairman, by saying that many of the Nation's small business leaders have spoken out in favor of this bill. The National Federation of Independent Businesses, NFIB; the National Small Business United; the National Association of Women Business Owners; Small Business Survival Committee, American Farm Bureau; National Beer Wholesalers Association; National Association of Metal Finishers; National Automobile Dealers Association, and the printing industries of America have all endorsed our bill, H.R. 3110.

I think it is a very good bill. It moves forward under the Paperwork Reduction Act where the agencies have failed to act. And in particular, the provision that is a waiver of the first-time fines for failure to fill out the paperwork, I think is a good provision. What it says to our Nation's small businesses is, we know we are giving you too much paperwork. If you happen to make a mistake somewhere along the line and it does not cause any harm, is not a threat to harm, does not impede criminal investigations, does not have to do with your obligation to pay taxes or to protect your pension fund, then you are going to be given a second chance.

I think that is all that we can do. When our Nation's small business and one that employees 25 people has to fill out this much paperwork, Mr. Chairman, I think the least we can do is say, we are going to be on your side and be forgiving if you commit a harmless error somewhere in those thousands of pages.

I would urge all of my colleagues to support this bill, join the NFIB and other small businesses and the Farm Bureau and other groups in finally bringing this legislation to pass.

Mr. EHRLICH. Mr. Chairman, I rise today to offer my support to H.R. 3319, the Small Business Paperwork Reduction Act Amendments of 1998, introduced by my colleague, Representative DAVID MCINTOSH.

Small businesses are the engine of our national economy. Numbering twenty two million today, small businesses generate approximately half of all U.S. jobs and sales. Compared to larger businesses, they hire a greater proportion of individuals who might otherwise be unemployed—part-time employees, employees with limited educational background, young and elderly individuals, and individuals on public assistance.

Yet the smallest firms carry out the heaviest regulatory burden. They bear sixty-three percent of the total regulatory burden, amounting to $247 billion/year. Firms with under fifty employees spend on average nineteen cents out of every revenue dollar on regulatory costs. Small businesses desperately need relief from the burden of government paperwork.

One of small businesses' greatest fears is that they will be fined for an innocent mistake or oversight. The time and money required to keep up with government paperwork prevents small businesses from growing and creating new jobs. Paperwork counts for one third of total regulatory costs or $225 billion. In 1996, it required 6.7 billion man hours to complete government paperwork.

H.R. 3310 will give small businesses the relief they need from the burden of paperwork. It will put on the Internet a comprehensive list of all the federal paperwork requirements for small businesses organized by industry as well as establish a point of contact in each agency for small businesses on paperwork requirements. This legislation encourages cooperation and proper compliance by offering small businesses compliance assistance instead of fines on first-time paperwork violations which do not present a threat to public health and safety. Lastly, it will establish a task force including representatives from the major regulatory agencies to study how to streamline reporting requirements for small businesses. This legislation goes a long way in addressing the demands for reform of many of my small businessmen and women in the Baltimore area and the 2nd District of Maryland.

Mr. Chairman, the Small Business Paperwork Reduction Act will bring common sense into the process and go a long way toward relieving small businesses of excessive paperwork and fines. Please join me in strongly supporting this commonsense paperwork reduction bill for small business.

Mr. ALLEN. Mr. Chairman, I rise today in opposition to H.R. 3310, the Small Business Paperwork Reduction Act Amendments of 1998. The intent of H.R. 3310 is worthy. For years, the small business community has voiced its concerns about the scope and burden of regulatory costs. These concerns were addressed in the Paperwork Reduction Act (PRA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) and by the Administration in their current efforts to streamline paperwork requirements.

Small business is responsible for 80% of the jobs that are created in our country. We are innovative and prosperous when our capital markets are efficient and the demands by the federal government reasonable. I was self-employed not too long ago and remember well the challenges that any small business faces. Some of these challenges are addressed by H.R. 3310: requiring the Office of Information and Regulatory Affairs to publish a list annually on the Internet and in the Federal Register of all the federal paperwork requirements for small business; requiring each agency to establish one point of contact to act as a liaison with small businesses; and establishing a task force to study the feasibility of streamlining reporting requirements for small businesses.

The central problem with H.R. 3310 is its provision suspending civil fines for first-time violations by small businesses when they fail to comply with reporting and record-keeping requirements. I believe that this well-intentioned provision may reduce compliance and hamper the government's role to protect the public. When pension administrators, banks, financial advisors, food and drug manufacturers, and employers violate the law, these violations would not be addressed, even if willful, until a second violation.

Under H.R. 3310, a pattern of noncompliance would be difficult to detect by the agency with jurisdiction. For instance, the Consumer Product Safety Commission's efforts to monitor product safety would be hampered. Compliance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, which requires disclosure of lead-based paint hazards to prospective renters or buyers, would be reduced. The same applies to OSHA and ERISA requirements.

The case is clear that the burden of paperwork requirements does not outweigh public health, safety, and financial security considerations. While the title of H.R. 3310 is appealing, I believe its enactment would have serious, negative consequences on our nation. That is why I voted against H.R. 3310.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Paperwork Reduction Act Amendments of 1998".

SEC. 2. FACILITATION OF COMPLIANCE WITH FEDERAL PAPERWORK REQUIREMENTS.

(a) REQUIREMENTS APPLICABLE TO THE DIRECTOR OF OMB.—Section 3504(c) of chapter 35 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act"), is amended—

(1) in paragraph (4), by striking "; and" and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) publish in the Federal Register on an annual basis a list of the requirements applicable to small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)) with respect to collection of information by agencies, organized by North American Industrial Classification System code and industrial/sector description (as published by the Office of Management and Budget), with the first such publication occurring not later than one year after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998; and

"(7) make available on the Internet, not later than one year after the date of the enactment of such Act, the list of requirements described in paragraph (6).".

(b) ESTABLISHMENT OF AGENCY POINT OF CONTACT; SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS.—Section 3506 of such chapter is amended by adding at the end the following new subsection:

"(i)(1) In addition to the requirements described in subsection (c), each agency shall,

with respect to the collection of information and the control of paperwork—

"(A) establish one point of contact in the agency to act as a liaison between the agency and small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)); and

"(B) in any case of a first-time violation by a small-business concern of a requirement regarding collection of information by the agency, provide that no civil fine shall be imposed on the small-business concern unless, based on the particular facts and circumstances regarding the violation—

"(i) the head of the agency determines that the violation has caused actual serious harm to the public;

"(ii) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

"(iii) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

"(iv) the violation is not corrected on or before the date that is six months after the date of receipt by the small-business concern of notification of the violation in writing from the agency; or

"(v) except as provided in paragraph (2), the head of the agency determines that the violation presents an imminent and substantial danger to the public health or safety.

"(2)(A) In any case in which the head of an agency determines that a first-time violation by a small-business concern of a requirement regarding the collection of information presents an imminent and substantial danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(B)(v), determine that a civil fine should not be imposed on the small-business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small-business concern of the violation.

"(B) In determining whether to provide a small-business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

"(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

"(ii) whether the small-business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time;

"(iii) the previous compliance history of the small-business concern, including whether the small-business concern, its owner or owners, or its principal officers have been subject to past enforcement actions; and

"(iv) whether the small-business concern has obtained a significant economic benefit from the violation.

"(3) In any case in which the head of the agency imposes a civil fine on a small-business concern for a first-time violation of a requirement regarding collection of information which the agency head has determined presents an imminent and substantial danger to the public health or safety, and does not provide the small-business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.".

(c) ADDITIONAL REDUCTION OF PAPERWORK FOR CERTAIN SMALL BUSINESSES.—Section 3506(c) of title 44, United States Code, is amended—

(1) in paragraph (2)(B), by striking "; and" and inserting a semicolon;

(2) in paragraph (3)(J), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) in addition to the requirements of this Act regarding the reduction of paperwork for small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)), make efforts to further reduce the paperwork burden for small-business concerns with fewer than 25 employees.".

SEC. 3. ESTABLISHMENT OF TASK FORCE TO STUDY STREAMLINING OF PAPERWORK REQUIREMENTS FOR SMALL-BUSINESS CONCERNS.

(a) IN GENERAL.—Chapter 35 of title 44, United States Code, is further amended by adding at the end the following new section:

"§3521. Establishment of task force on feasibility of streamlining information collection requirements

"(a) There is hereby established a task force to study the feasibility of streamlining requirements with respect to small-business concerns regarding collection of information (in this section referred to as the 'task force').

"(b) The members of the task force shall be appointed by the Director, and shall include the following:

"(1) At least two representatives of the Department of Labor, including one representative of the Bureau of Labor Statistics and one representative of the Occupational Safety and Health Administration.

"(2) At least one representative of the Environmental Protection Agency.

"(3) At least one representative of the Department of Transportation.

"(4) At least one representative of the Office of Advocacy of the Small Business Administration.

"(5) At least one representative of each of two agencies other than the Department of Labor, the Environmental Protection Agency, the Department of Transportation, and the Small Business Administration.

"(c) The task force shall examine the feasibility of requiring each agency to consolidate requirements regarding collections of information with respect to small-business concerns, in order that each small-business concern may submit all information required by the agency—

"(1) to one point of contact in the agency;

"(2) in a single format, or using a single electronic reporting system, with respect to the agency; and

"(3) on the same date.

"(d) Not later than one year after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998, the task force shall submit a report of its findings under subsection (c) to the chairmen and ranking minority members of the Committee on Government Reform and Oversight and the Committee on Small Business of the House of Representatives, and the Committee on Governmental Affairs and the Committee on Small Business of the Senate.

"(e) As used in this section, the term 'small-business concern' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 631 et seq.).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3521. Establishment of task force on feasibility of streamlining information collection requirements.".

The CHAIRMAN pro tempore. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to this bill?

□ 1215

AMENDMENT NO. 1 OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. DICKEY). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. KUCINICH:

Page 4, strike line 10 and all that follows through page 6, line 25, and insert the following:

"(B) establish a policy or program for eliminating, delaying, and reducing civil fines in appropriate circumstances for first-time violations by small entities (as defined in section 601 of title 5, United States Code) of requirements regarding collection of information. Such policy or program shall take into account—

"(i) the nature and seriousness of the violation, including whether the violation was technical or inadvertent, involved willful or criminal conduct, or has caused or threatens to cause harm to—

"(I) the health and safety of the public;

"(II) consumer, investor, worker, or pension protections; or

"(III) the environment;

"(ii) whether there has been a demonstration of good faith effort by the small entity to comply with applicable laws, and to remedy the violation within the shortest practicable period of time;

"(iii) the previous compliance history of the small entity, including whether the entity, its owner or owners, or its principal officers have been subject to past enforcement actions;

"(iv) whether the small entity has obtained a significant economic benefit from the violation; and

"(v) any other factors considered relevant by the head of the agency;

"(C) not later than 6 months after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998, revise the policies of the agency to implement subparagraph (B); and

"(D) not later than 6 months after the date of the enactment of such Act, submit to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate a report that describes the policy or program implemented under subparagraph (B).

"(2) For purposes of paragraphs (1)(B) through (1)(D), the term 'agency' does not include the Internal Revenue Service.".

Mr. KUCINICH. Mr. Chairman, I want to again commend the gentleman from Indiana (Mr. MCINTOSH) for the efforts that we have made throughout many

long and arduous hearings over this important bill. I regret that we have not been able to come to an agreement, but I still can say that I admire his dedication and his willingness to attempt to craft a mutual agreement, and I look forward to an opportunity to work with him again on another occasion, hopefully something that could reach a mutual conclusion.

The amendment that the gentleman from Massachusetts (Mr. TIERNEY) and I are offering today is consistent with the goals that we have set out for this legislation, to help small business while protecting the health and safety of the public. I want to tell the gentleman from Massachusetts how much I have appreciated his assistance in trying to bring this bill back to a point where it is going to benefit small business and the public.

This amendment is also consistent with past action by the Congress on small business issues, issues such as SBREFA which the gentleman from California (Mr. WAXMAN) so ably spoke to a moment ago. This amendment would require, and I emphasize the word "require," all agencies to establish specific policies and programs to allow them to eliminate, delay or reduce civil fines for first-time violators of paperwork requirements. In putting together those policies, agencies would be required to take into account a number of factors. Those factors would include, first of all, the seriousness of the violation and whether it involved willful or criminal conduct. Agency policies must include whether the small business is making a good faith effort to comply with applicable laws and correct the violation as quickly as possible. It would also mandate that the agency look at the previous compliance history of the business and whether the small business gained an economic advantage or competitive advantage by its action.

Furthermore, the amendment includes a strict time frame for agencies to take these actions. Within 6 months agencies would have to implement these policies and report back to the Committee on Government Reform and Oversight. This amendment would ensure that paperwork reduction efforts are truly relevant to the special circumstances of all industries. Agencies would be able to tailor their policies to the unique needs of the statutes that they are responsible to enforce and congressional review of these policies would become a matter of course.

Mr. Chairman, in passing this amendment, Congress would be responsive to the concerns raised by the Department of Justice and other Federal agencies. During committee consideration of this bill, we heard testimony from the U.S. Department of Justice, the Department of Transportation, the Securities and Exchange Commission and OSHA. All of these agencies raised serious questions about the impact of H.R. 3310 on drug enforcement, employee protections, drug testing statutes and our ability to ensure that investors have the information they need to make wise decisions. The Department of Justice said that the current language in H.R. 3310, and I quote, could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning and undercut controls on fraud against consumers and the United States.

Some examples. Without this amendment, the bill would protect drug traffickers. Law enforcement agencies detect drug trafficking and money laundering using reports filed by businesses. H.R. 3310 would encourage financial institutions to not report cash transactions that are more than $10,000. Without this amendment, this bill would undermine our ability to uncover illegal activity. The Drug Enforcement Administration relies on written reports to ensure that controlled substances are not diverted illegally. H.R. 3310 would encourage pharmacies to not report their distribution of controlled substances.

Finally, without our amendment, it would undercut drug testing statutes and public safety. The Department of Transportation requires reports from employers showing that drivers and other safety sensitive employees have passed drug tests. The current language would give an incentive to businesses to avoid reporting. With this amendment, with the Kucinich-Tierney amendment law enforcement officials would continue to have the tools they need to combat illegal drugs, guard the environment and protect the health and safety of our citizens. We will then have legislation that I believe will attract additional bipartisan support and the support of the administration.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I again just reiterate the long road that this bill has taken and the fine work of the gentleman from Ohio in trying to make sure that it in fact does what everybody expresses is their intention, and that is aid small businesses.

Mr. MCINTOSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a lot of debate is going on right here about whether or not this bill is in the interest of the Nation's small business. Let me quote for my colleagues from a letter from the NFIB, the voice of small business, the Nation's largest small business organization. In their letter they point out that

this bill will build on past efforts to reduce the flow of government red tape by taking steps to reduce the paperwork burden for small business. Importantly, the bill requires Federal agencies to waive civil fines for first-time paperwork violations so that small businesses can correct the violation. This provision provides small business owners with a one-time warning that they should comply with paperwork requirements, not a blank check to disregard government rules and endanger the welfare of their employees. Small businesses must still correct the violation under this legislation.

The text of the letter is as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 17, 1998.

Hon. DAVID MCINTOSH,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 600,000 members of the National Federation of Independent Business, I am writing to express our strong support for the "Small Business Paperwork Reduction Act Amendments of 1998." We appreciate your leadership in moving forward with this legislation to address one of the perennial concerns of small business owners.

The burden of federal government paperwork continues to rank high among the top concerns of NFIB members. In our 1996 edition of Small Business Problems and Priorities, federal paperwork ranked as the seventh highest concern of our members. Because of their size, government paperwork hits small business particularly hard.

This bill will build on past efforts to reduce the flow of government red-tape by taking steps to reduce the paperwork burden for small business. Importantly, the bill requires federal agencies to waive civil fines for first time paperwork violations so that small businesses can correct the violation. This provision provides small business owners with a one-time warning that they should comply with paperwork requirements—not a blank check to disregard government rules and endanger the welfare of their employees. Small businesses must still correct the violation under this legislation.

We believe this legislation includes incentives for small business owners to comply with paperwork requirements by providing them with an agency point of contact, a one-time suspension of fines, and encourages further government action to streamline paperwork. We hope it receives the full support of your subcommittee and the full committee.

Sincerely,

DAN DANNER,
Vice President.

Mr. Chairman, this amendment, as well intended as it is, frankly would gut that provision in the bill, because it does nothing more than reenact the requirement in SBREFA that the agencies adopt a policy in appropriate circumstances, with discretion. What we have seen since SBREFA has been enacted is that the agencies have failed to meet the requirement on reducing paperwork and when they do have policies, continue to impose fines for innocent paperwork violations. I would like to point out the severity of the failure of the agencies to actually live up to SBREFA and submit for the RECORD a list of the performance standards as reported from OMB agency by agency. Several of them have actually increased their paperwork requirements

since that law was passed. The Commerce Department went up by 8.8 percent last year, Interior by 16.3 percent, Transportation by 32.7 percent, EPA by 6.9 percent, FEMA by 7.7 percent, NSF by 4.9 percent, and the Office of Personnel Management by 4.4 percent. That is in spite of the mandate from Congress to reduce their paperwork by 10 percent each year. So the agencies are not paying attention to SBREFA. To merely reenact the requirement there that they adopt the policy in this area will fail to protect our Nation's small businesses.

I am with NFIB, that we need to keep the bill as written and we need to actually do what is good for our Nation's small businesses and sadly reject the effort of our colleagues to try to bring back SBREFA. We need to move forward in this area and keep the bill as it is written.

The document referred to is as follows:

TABLE 3.—TOTAL INFORMATION COLLECTION BURDEN BY AGENCY

	Fiscal year 1995 total hour burden	Fiscal year 1996 total hour burden	Estimated fiscal year 1997 total hour burden	Percent change from fiscal year 1995 to fiscal year 1996	Est. percent change from fiscal year 1996 to fiscal year 1997
Government Totals	6,900,931,627	6,722,553,928	6,599,717,955	−2.6	−1.8
Totals, excluding Treasury	1,569,633,594	1,369,708,498	1,305,372,478	−12.7	−4.7
Departments:					
Agriculture	131,001,022	107,248,206	96,361,525	−18.1	−10.2
Commerce	8,239,828	7,960,779	8,663,555	−3.4	+8.8
Defense	205,847,538	152,490,315	127,479,302	−25.9	−16.4
Education	57,554,905	49,111,300	44,000,000	−14.7	−10.4
Energy	9,187,531	[1] 4,656,053	[1] 4,167,682	−49.3	−10.5
HHS	152,615,502	137,540,947	123,004,913	−9.9	−10.6
HUD	33,769,554	37,245,148	35,742,755	10.3	−4.0
Interior	4,165,429	4,357,370	5,069,683	4.6	+16.3
Justice	36,670,323	36,162,128	30,910,453	−1.4	−14.5
Labor	266,447,906	241,077,975	221,847,999	−9.5	−8.0
State	8,678,480	[2] 596,789	598,475	−93.1	+0.3
Transportation	91,022,665	66,167,487	87,832,271	−27.3	+32.7
Treasury	5,331,298,033	5,352,845,430	5,294,345,477	0.4	−1.1
Veterans Affairs	11,133,887	9,434,552	6,974,355	−15.3	−26.1
Subtotal	6,347,632,603	6,206,894,479	6,086,998,445	−2.2	−1.9
Agencies:					
EPA	103,066,374	107,655,255	115,056,000	4.5	+6.9
FAR	22,146,676	23,445,460	23,348,937	5.9	−4.1
FCC	22,644,046	23,879,914	22,002,682	5.5	−7.9
FDIC	8,502,121	8,633,570	7,974,929	1.5	−7.6
FEMA	5,175,501	4,802,083	5,172,159	−7.2	+7.7
FERC [1]		5,157,268	5,157,268		0
FTC	146,149,460	146,148,091	146,139,841	0.0	−0.0
NASA	9,561,494	9,228,714	8,813,813	−3.5	−4.5
NSF	5,691,560	5,760,203	6,043,963	1.2	+4.9
NRC	8,726,244	9,942,882	9,493,835	13.9	−4.5
OPM	1,038,719	933,086	974,490	−10.2	+4.4
SEC	191,527,284	142,105,083	135,774,892	−25.8	−4.5
SBA	2,355,150	2,288,365	2,160,000	−2.8	−5.6
SSA	25,307,594	25,679,475	24,606,701	1.5	−4.2
Subtotal	[3] 553,299,024	515,659,449	512,719,510	−6.8	−0.6

[1] The paperwork burden for the Federal Energy Regulatory Commission was contained in the DOE burden inventory in FY 95 but counted separately in later years.
[2] State's FY 96 reduction is attributable to the expiration of OMB number 1405–0018 (8 million hours).
[3] Subtotal includes a total of 1,406,801 hours of burden from AID, GSA, NARA, and USIA.

Mr. POMEROY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin my remarks by commending the bill's sponsor as well as the amendment's sponsor for the thoughtful discussions that has unfolded on the House floor. I think that the tone and the depth of the debate has been extremely interesting. I want to also commend the bill's sponsor and the amendment's sponsor for advancing a very important public purpose of providing meaningful paperwork reduction to the small employers across the country.

I have spent probably the last 2 or 3 years in this Chamber focusing on how we expand employer-based retirement savings opportunities for the Nation's workforce. I have concluded that providing paperwork reduction is an important part of expanding the opportunity for employers to offer work-based retirement savings. We have simply made it too complex, too confusing, too cumbersome and we have actually discouraged employers from doing just what we want to encourage them to do, provide a retirement benefit for their workers.

I have joined this effort at paperwork reduction. We have passed some on defined contribution plans, we have got some that is proposed and under consideration for defined benefit plans. One of the things that I have learned as we have worked in this area of paperwork reduction for retirement benefits is that it is vitally important to get it right. Therefore, the amendment before us deserves very careful consideration. I would urge its adoption. I think that the bill overreaches relative to retirement benefits. Let me give my colleagues a couple of examples of where it would.

One of the requirements, one of the regulatory requirements of an employer offering retirement benefits to their employees is that they provide a summary plan description to the employee alerting the employee as to the benefit they are receiving. This can be very important. In a defined contribution plan, for example, it is quite often structured so the employer will match the employee's contribution into the retirement savings account. The employee, for example, for every dollar up to 3 percent of salary for example, the employer will match dollar for dollar. Imagine the situation, if you will, where the employer forgets to notify the employee that that program is available, that that match is available into the retirement account. The employee does not know of this retirement benefit, the employee does not exercise their opportunity to gain retirement savings, and there is nothing, virtually nothing the Department of Labor can do under the bill to respond to that situation.

We need to have our workforce have retirement benefits at work and we need to have them alerted to what those benefits are. I think the amendment would be much more appropriate than the bill itself relative to that issue.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I appreciate the gentleman's comments but

I want to ask the gentleman, is he aware that there is a specific exemption which covers all IRS regulations and all IRS paperwork requirements and that as a result of that exemption, ERISA, the act that he has just been discussing, is exempted; that is, the paperwork violation about which he is concerned which comes under ERISA is not covered; that is, is exempted from this provision?

Mr. POMEROY. I would be happy to respond. The regulatory requirement to which I was speaking is originally based in the ERISA legislation, but based in the Department of Labor. And so it is certainly my impression that the legislation before us does not waive that one, that it would be applicable as a Department of Labor requirement on small business.

Mr. SHADEGG. If the gentleman will yield further, it is my understanding and perhaps we can get a clarification from staff, that the exemption of ERISA from the provisions; that is, of all the IRS code and therefore of ERISA, takes care of the specific issue that he is raising.

Mr. POMEROY. I have another issue that I will raise in that respect, but I would love the clarification, that ERISA in total is not subject to the act. That is not my understanding.

Mr. SHADEGG. That is my understanding.

Mr. POMEROY. Can the gentleman clarify that?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. The fact of the matter is that ERISA only partially deals with the collection of money issues. There are many other provisions of ERISA that deal with the collection of information for other pertinent and very valuable reasons that would not be involved with this particular exclusion concerning the internal revenue law.

Mr. POMEROY. Reclaiming my time, that is precisely my point. This is not an IRS "you owe the money" deal. This is a requirement on the employer that they notify the employee of what their retirement benefits are. It is my belief that that would be dealt with under the act, that part of ERISA is not exempted.

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Kucinich amendment and in support of the legislation as introduced. Let me make it clear why I feel that is appropriate. Under existing law, SBREFA as we have passed it, the Small Business Regulatory Enforcement Fairness Act, which was passed in 1996, the language in this proposed amendment, is already present law. That is to say, in the amendment now being offered, any agency which regulates small business would be required to establish a policy or program in appropriate circumstances for first-time violations of a paperwork requirement. The existing law, a copy of which I am holding here in section 223(a), already says that all agencies are required, and I quote, to establish a policy or program under appropriate circumstances for the waiver of civil penalties.

□ 1230

The requirement that is embodied in this amendment is already in existing law.

Mr. POMEROY. Mr. Chairman, will the gentleman yield?

Mr. SHADEGG. Certainly I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Chairman, this is just for purposes of clarifying our earlier exchange.

I would point to page 4 of the bill, lines 22 through 25, as addressing the violation or violations of Internal Revenue law or laws asserting the assessment or collection of any tax debt, revenue or receipt, and the provision of ERISA to which I was referring was the requirement that an employer alert the employee of the retirement benefits in the plan. That is something that I believe we want to encourage, and I am afraid a blanket exemption as contained in the bill, unlike the proportional language dealt with in the amendment, would be an overreach, would be too much of a correction in that respect.

Mr. SHADEGG. Reclaiming my time, Mr. Chairman, it appears we have different interpretations, as occasionally happens. My understanding from the staff on our side is that because we get an IRS deduction for the establishment of a benefit plan which complies with ERISA, that everything that is required to comply with that and that is in order to get the benefit, one is required to do these certain things. That is, in fact, a provision of the IRS Code brought into this under ERISA and that it would apply.

Mr. POMEROY. Mr. Chairman, I thank the gentleman.

Mr. SHADEGG. Certainly.

To return to my point, Mr. Chairman, I think first of all, it is important for Members to understand that the language of the amendment is already the language of existing law. We have already told agencies to establish a policy or program under appropriate circumstances for the waiver of civil fines.

That language, I think if now reenacted, would make this bill almost meaningless, and I think it is important for Members to understand that this bill, as written and as introduced and brought here by the committee, covers first-time paperwork violations. And it seems to me quite clear that when you understand that we are leaving in place the ability to punish the underlying substantive offense, the underlying violation of the law, and when we are only talking therefore about the paperwork violation, that is, the failure to file the paperwork from which one might discover the underlying violation, I have a difficult time seeing the problem and a difficult time accepting an amendment which would gut that.

But beyond that, it is very important to understand that what this legislation does is it applies to first-time violations only. When we think of the businesses across America, no business can start business and exist and be profitable with the heavy paperwork burdens they have, and have to file literally dozens, if not hundreds, if not thousands of these forms, and there was plenty of testimony before the committee about the paperwork burden.

But the point here is that for any kind of a violation that might reveal a pattern of conduct that might result in harm, a one-time violation is not going to cause a serious problem. The form is going to have to be filed over and over and over again. This simply says that for the first violation there should not be a penalty, and it only says that in certain circumstances. If health and safety is still implicated, then there can be a penalty.

I will remind the Members of the discussion earlier about the gentleman who was visited at his restaurant. He was missing one form. The form was a data sheet about the safety of something in his restaurant. It was a soap in his restaurant, not a harmful product. He was fined $1,000 by OSHA. During the OSHA visit, his store manager called the company and had the data sheet, material safety data sheet, faxed to the office. It was there within that period of time, there within a matter of minutes, and OSHA still imposed the $1,000 fine.

Mr. Chairman, I think that makes no sense, and I think this is a reasonable piece of legislation on which we have tried to work with the other side in a bipartisan fashion, and they have proffered language which has improved it. I urge the rejection.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. SHADEGG) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. SHADEGG was allowed to proceed for 2 additional minutes.)

Mr. SHADEGG. I urge the rejection of the amendment as being an amendment that would set this legislation so far back as to make it nearly meaningless, and I urge the adoption of the bill as proffered by the committee.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Texas.

Mr. DELAY. I really appreciate the statement that the gentleman from Arizona makes, Mr. Chairman, and I too

rise in support of this legislation and, frankly, in opposition to this gutting amendment. And I appreciate the gentleman standing against this amendment.

I am just amazed at the liberal opposition to this legislation.

It must represent a really a low point.

It must really represent a low point in their anti-small business efforts; now we understand the real motives of the far left. The liberals are in favor of more paperwork, they want more work for government.

Mr. Chairman, it seems to me that the liberals are in favor of more paperwork, they want more work for government bureaucrats, they want more profits to be wasted on redundant forms and silly Federal regulations and requirements. I got to tell my colleagues, Karl Marx must be turning over in his grave. Is this the once proud left wing, is this all they have to fight over?

I too oppose this gutting amendment, Mr. Chairman, and support this commonsense legislation. I just think we ought to give small businesses a break today.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the Members on the other side for the title of this bill, the Small Business Paperwork Reduction Act. That is a terrific title, and it is hard to imagine that any one of us could oppose a bill like that, except for the content of the bill. But that is a great title.

But the fact is that we have got two proposals in front of us. One is the Kucinich-Tierney amendment, and I believe that is the right sort of amendment because it gives our agencies the kind of flexibility that we need.

The other side has gone on about how the bill, as drafted and as reported out by the committee, only deals with paperwork violations. But there are paperwork violations and others. The fact is that for many of our agencies there has to be a regular period of reporting.

I want to mention a couple of things. The principal deputy, an associate general for the Department of Justice, has testified that automatic probation for first-time offenders would give bad actors little reason to comply until caught, and that would work to the economic detriment of those hard-working small business owners who work hard to comply with the law. And that is my fear about this particular legislation.

If we approve this legislation, we are creating a set of incentives, and among those incentives are an interest of some people in taking the reporting requirements less seriously; and, in my opinion, that hurts the legitimate small business owner who is out there trying to comply with the law, and helps those who are trying to get away with one thing or other.

As my colleagues know, the Department of Justice has also said that this bill could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut controls and fraud against consumers and the United States.

I am very concerned about this bill in a number of different respects, and I want to turn to one of them in particular. We have a set of protections that are designed to protect our safe drinking water, and self-monitoring and reporting are the foundations of the Clean Water Act and the Safe Drinking Water Act. These reporting requirements are designed to give State and Federal environmental protection officials knowledge of environmental compliance before any harm occurs.

Under H.R. 3310, the agency would have to prove the failure to report the pollutant, and not just the existence of the pollutant, posed a substantial and imminent threat before it could assess fines. And I do not think that relying on EPA inspections is a viable alternative. The EPA only has enough staff to inspect our 200,000 public water systems once every 40 years.

What we need is an effective system of reporting, and if my colleagues look at the Tierney-Kucinich amendment, what it is doing is saying that rather than a blanket exemption for all first time offenders, what they are doing is directing every agency to develop policies to deal with first time so-called paperwork violations.

That is a far more sensible approach. It is a kind of approach that I think makes sense. It is a kind of approach that will give our small businesses the relief they need, and yet not let people off the hook when they do not create any incentives for people not to keep the kinds of records that help keep our public safe in a wide variety of different areas.

As Franklin Raines has said, and I will yield in one second, the primary beneficiaries of section 2(B) would appear to be those who do not act in good faith and those who intentionally or willfully violate the applicable regulations.

That is what we are concerned about on this side of the aisle, and I urge my colleagues to support the Kucinich-Tierney amendment.

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Indiana.

Mr. McINTOSH. First, Mr. Chairman, I want to make sure the gentleman is aware of section 2 that says in the case of imminent and substantial danger to public health or safety, the agency can continue to impose a civil fine.

Second, let me state for the record I do appreciate the work of the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) on this amendment. We disagree about it. I do believe that it would ultimately gut this key provision in our bill. But he has worked in good faith in the committee in trying to develop this legislation, and I want to say in particular that many of the provisions in our bill that make sure that in cases of an imminent danger to public health and safety are there with the good work of the gentleman from Ohio (Mr. KUCINICH). We did not go as far as he wanted to in the language, and so we are debating his amendment, but I appreciate his good work on this.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let us try to understand what is at issue. If small business did not do something that was technically required in terms of filing some paperwork, or if their failure to comply adequately was inadvertent, they acted in good faith, no one thinks that they ought to have a penalty imposed upon them.

But on the other hand, if a small businessman or woman willfully and recklessly were involved in criminal conduct and in pursuance of that criminal conduct did not file the reports that would disclose that conduct, that small business person should not be let off the hook.

And, no, I will not yield at this moment, but I hope the gentleman will listen to me because I think this bill is flawed, because the bill before us would allow such a small businessperson who willfully, recklessly and intentionally tried to take advantage of this law that said that they did not have to get penalized if they filed such a report.

I do want to yield to the gentleman from Indiana because I find that hard to justify.

Mr. SUNUNU. I am the gentleman from New Hampshire.

Mr. WAXMAN. The gentleman from Indiana is the author of this. I find it hard to justify.

Now, the exception that he wrote into his bill is if there is an imminent and substantial threat to harm or safety; but that does not answer the problem because the agency would have to prove this eminent and substantial threat.

It seems to me to make more sense, if we are trying to remove the threat on a small businessperson who acted in good faith and they are going to be fined, that we do not let the others off the hook who are acting recklessly and willfully.

Could the gentleman explain why he would allow that to happen?

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. McINTOSH. Mr. Chairman, I will be happy to explain once again that

our bill does exactly what the gentleman wants do, which is target the efforts on those who are willfully violating the law.

In addition, I would ask the gentleman, is it not true that the agencies still have civil prosecutions in court? Is it not true that the agencies still have criminal prosecution available to them? Is it not true that the agencies still have injunctive relief to make sure that where there are willful bad actors, they will be dealt with with the full force of the United States Government?

□ 1245

Mr. WAXMAN. That is a very good question. But the problem is that the agency might not know about someone's 401(k) fraud unless they see what disclosures were in the paperwork. They have to find out about something for which they are not being informed.

The reason that certain forms are required to be filed is to give the agency the information to know whether that small business is complying with the law. If they do not file the form, they may not know that a small pharmaceutical company found out that there was a side effect that could do harm, or that a seller of property knew about a lead threat or did not disclose it, or that the employer knew that their employees may be harmed by some hazardous substance and did not disclose it to them or to the agency involved. The agency just would not know. That is the first reason.

The second answer to your question is, not only would the agency not know, but let us say the agency did know. To require the agency to come in and then have to get injunctive relief and criminal actions and all of that just seems to me to put the agency in a position where they are going after the small business with a sledgehammer. The reason for these reports is not to just collect money. The reason is to know whether there is a problem.

The Kucinich-Tierney amendment spells out very clearly that if there is a technical or inadvertent reason why that report was not filed, if it was in good faith, there were efforts to comply or rectify the violations and there was no previous lack of compliance history, that they would not be fined.

But, on the other hand, if there was a willful or criminal involvement that in fact there was a threat to harm and safety to consumers, investors and others, and that there was not this good-faith effort on their behalf, and in fact they had a very murky record in terms of complying, in fact they had not complied in the past with other requirements or they got an economic benefit for the violation, those factors would be taken into consideration, and they ought to be taken into consideration.

Unless this amendment is adopted, it could not even be looked at.

Mr. SUNUNU. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin by repeating a point that was made here in response to the remarks that were made that did not receive any response, and that was simply that, under this underlying legislation, there is no restriction whatsoever on an agency's ability to pursue civil penalties. There is no restriction whatsoever on their ability to pursue criminal prosecution. There is no restriction whatsoever on an agency's ability to seek injunctive relief. The provisions are retained to pursue bad actors to the fullest extent of the law.

The only attempt to provide relief here is for those small businesses that are first-time paperwork violators. Even so, there are exemptions in the legislation that provide to make sure that if there is a threat to public safety, if we are dealing with fraudulent issues related to the IRS or tax matters, or if we are reducing an ability to pursue criminal activity, there is full exemption from those restrictions.

The goal here is to ensure that agencies can go after the bad actors, can go after those that are negligent, can go after those that pursue criminal activity. But for the small business that has a first-time paperwork violation, there is some relief.

Also, the legislation ensures that those small businesses are at least made aware of what the small business regulations are, the paperwork regulations are, through the Internet. I think that that is an important step in the right direction. I think it provides the kind of relief that small businesses certainly deserve.

A comment was made about the amendment, the Kucinich amendment, which I certainly oppose that somehow this amendment gives agencies the flexibility they need. The fact is this amendment gives agencies the flexibility they already have, because it essentially restates the Small Business Regulatory Enforcement Fairness Act that is already on the books.

The amendment, the Kucinich amendment, is nothing more than a status quo amendment. It reflects no change. SBREFA, Small Business Regulatory Enforcement Fairness Act, may be a good business regulation, but it does not bring us forward; it does not provide for additional relief.

The fact is, if you support the status quo, that may be fine, but there are small businesses out there in New Hampshire, all across the country that are concerned about the burden of paperwork, that are concerned about the cost of regulation; and this provides them with some relief for that small business that is a first-time paperwork violator.

Mr. Chairman, I yield to the gentleman from Indiana (Mr. MCINTOSH).

Mr. McINTOSH. Mr. Chairman, first, let me express appreciation for the gentleman from New Hampshire, vice chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. He has done a wonderful job on our committee in helping to craft this legislation and also overseeing the functions of the subcommittee.

I am amazed by the complex argument of my colleague, the gentleman from California (Mr. WAXMAN). But it seems to come down to, on the one hand, they are afraid that the agencies will not do enough because they do not have the civil fines. On the other hand, they are afraid they might do too much because they have civil penalties in the courts and criminal penalties and injunction.

I will, once again, share with my colleagues the analogy that I think fits the description here. The agencies are like traffic cops. They would rather give out tickets for speeding violations than apprehend who has broken into your house and is stealing your TV, because it is a lot easier to give out traffic tickets than to go after the real bad guys.

What this bill says is that we are going to give you a pass if you make an innocent mistake the first time; but if you are a bad actor, we are going to come after you with all the full force of the Federal Government.

In closing, I am sad to say, but a vote for the Kucinich-Tierney amendment is a vote against our Nation's small businesses because it would not move the dime forward on this key issue.

Mr. SUNUNU. Mr. Chairman, I thank the gentleman from Indiana very much for his remarks. In closing, I want to reemphasize the point that seems to have been missed by those who were opposed to this legislation and supportive of this gutting amendment; and that is that this legislation does nothing to limit the agency's ability to seek criminal penalties, to seek civil penalties and civil prosecution, to put an injunction in place and to pursue the bad actors or anyone that ought to be convicted of willful or negligent activity. We can prosecute them to the fullest extent of the law.

This is some relief for small businesses, relief only for first-time paperwork violations and provides full exemption when there is an imminent threat to public safety. The drinking water issues that were raised, lead poisoning, I think few would doubt that these are issues of public safety, a threat to public health; and that would certainly, in appropriate circumstances, be dealt with with the exemption of this legislation.

Mr. Chairman, I would urge my colleagues to oppose the Kucinich amendment and support paperwork relief for small businesses.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just start by saying again most of the way along the path here, this has been an effort to cooperate with the gentleman from Indiana (Mr. MCINTOSH), chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, with the gentleman from Ohio (Mr. KUCINICH), myself, and others on the committee to do something good for small businesses.

It was unfortunate to hear the gentleman from Indiana wrap up with some statement about this vote on the amendment being a vote against small business. That is clearly not so. I cannot believe that the gentleman from Indiana, after the long, cooperative effort that he has had with the gentleman from Ohio (Mr. KUCINICH), in particular, and myself and others on the committee really believes that is the case.

What we have is a vote about what each respective side believes is the appropriate way to both help small business and to also make sure that we put in place the requirements that would protect the public safety and the public health and the environment that we are all required to do. We can have an honest disagreement about how that might proceed, but we ought not to take this to the rhetorical level that somebody is for or against anything completely.

People on this side of the aisle, Mr. Chairman, are firmly for small business. We clearly understand that our amendment, the Tierney-Kucinich amendment, states that this will tighten up SBREFA, this will make small business violations, for the first-time instances, be addressed by an agency mandatorily with a waiver in those occasions where that is appropriate. That brings SBREFA further along with regard to that particular than it is today.

There is no place for bombasting in this debate, and there is no place for labels going on. This is simply, how do we best protect the public interest and protect small businesses as they go about their venture?

There are parts in this bill that are very good. Should we give notices to small businesses, provide a list so we know about the requirements that have to be met? Absolutely. We can all agree upon that. Might we have one point of contact so a small business goes to an agency to deal with one individual to get their issues resolved? Absolutely. Should we have a task force for streamlining the amount of paperwork that small business has done? That would really result in paperwork reduction. That is an excellent part of the bill that we support.

Mr. Chairman, I would yield for a couple of seconds to the gentleman from Indiana (Mr. MCINTOSH) to ask him to point out any part of H.R. 3310 that actually in itself reduces paperwork. There is nothing in that bill that does anything to reduce paperwork.

The closest thing that is arrived at is this provision to have a task force to streamline. We are firmly behind that. We would urge the committee to do just that, to get that report and then to take that stack that is on the table next to the gentleman from Indiana (Mr. MCINTOSH) and reduce it significantly.

All through my business career and the people that I represented, we complained about that amount of paperwork being there, thought that we might be able to reduce it, while at the same time, protecting the public interest. That is what the Kucinich-Tierney amendment portends to do. It portends to make sure that nobody is given an incentive not to comply.

Although we may disagree, Mr. Chairman, with the wording that is in that bill, I can tell you clearly that a practical reading of it would be an incentive to those businesses that are inclined to not comply to do just that.

For all the businesses that go out there day-to-day that are concerned about what they do and its effect on the environment, are concerned for the safety of their employees, are concerned for law enforcement, are concerned that everybody, including themselves, have their pensions protected. They simply want to be relieved from as much paperwork as they can be, and they want the ability for an agency to come in and apply a policy that would allow a waiver in a first-time violation where it is appropriate.

They are not looking for ways to have their competitors who might be unscrupulous avoid the obligation at a disadvantage to the law-abiding business person.

To say that the proper remedy here is injunctive relief, to say, well, you can still prosecute them criminally, to say that you can have more inspections, as a business person, let me tell the gentleman from Indiana, no, thank you. If it comes down to having an agency exercise its discretion and treat me fairly and, at most, give me a civil penalty. I am for that.

If you think the $750 fine that you keep repeatedly bringing up, and those on your side, is a big number, wait until you see what the cost for injunctive relief is when you have to go out and hire a lawyer to protect yourself against that. Wait until you see what the cost is for criminal prosecution. Wait until you see what those inspections, how onerous those can be when they are not there.

Let us do the appropriate thing and make sure that in a first-time violation, the agency has the discretion it should have.

Mr. MCINTOSH. Mr. Chairman, will the gentleman yield?

Mr. TIERNEY. I yield just very briefly to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in that example, Mr. Gary ROBERTS is fined $750. He actually brought the hazardous communication program right to the work site.

Mr. TIERNEY. Reclaiming my time, I will address that.

Mr. MCINTOSH. There would be no need for an injunction, no need for a court case.

Mr. TIERNEY. Reclaiming my time, that example is a situation, and OSHA came in and testified before the committee and told you that has been addressed, that OSHA has a zero tolerance now for those situations. They do not fine people for failing to have something posted in a first-time violation and had put in fact a policy; we had agency after agency come in before us and tell us that they are moving in that direction.

The fact of the matter is, we are waiting on the reports on the SBREFA to see what the policies are and what the effect is. The majority on the committee got anxious and went forward with this bill before they even found out what the information was. That is not appropriate here. Your own party has raised some very important issues here.

Mr. Chairman, I would ask my colleagues to support the amendment. It does, in fact, help small businesses. We can all be on the same page here, and we ought to be.

The CHAIRMAN pro tempore (Mr. DICKEY). The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

The point of no quorum is considered withdrawn.

□ 1300

AMENDMENT OFFERED BY MR. MCINTOSH.

Mr. MCINTOSH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH:

Page 6, strike line 25 and insert the following:

imposed by the agency.

"(4) Notwithstanding any other provision of law, no State may impose a civil penalty on a small-business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.".

Mr. MCINTOSH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MCINTOSH. Mr. Chairman, this amendment came out of testimony that we did hear from OSHA and many of the States; where they do have enforcement of their regulations, the States actually are the entities that enforce it, and they said even if our bill passed, they would not be able to control what those State enforcement agencies did in terms of civil penalties for first-time violations.

So what this amendment does, it is a very narrow amendment that says, where there is a Federal law that is being enforced by State agencies, those agencies also will have to comply with the sections of this bill that allow small businesses to have an exemption for a first-time violation that does not pose imminent threat to health and safety, does not impede criminal investigation, does not involve an Internal Revenue Code provision.

So it is an amendment we probably should have put into the full committee draft when we had a substitute. We did not. But in reflecting upon the testimony given to us by the agency on a problem where their hands are tied in certain cases, where they do not really get to control enforcement activities, this would mean that all of the enforcement, whether it is done at the State or the Federal level, are on an equal basis so that one does not have small businesses in some States being harassed and some small businesses in other States being protected by the statute.

Mr. TIERNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just would note the irony in this particular amendment coming from my colleagues on the other side of the aisle. For a group that repeatedly talks about States' rights and the Federal Government telling States what they can and cannot do, this would seem to me to be the ultimate example of that.

For those States that like to have some ability to exempt themselves from Federal programs or Federal requirements and impose their own set of priorities, for instance, if a State chooses to focus on reporting requirements instead of on-site inspections, it may well want to assess civil fines when there are intentional violations of those requirements. This, of course, would prohibit the State from having that kind of flexibility; it is ironic, and just a bit amusing on this side of the aisle to see how everyone who supports States' rights or would want to support them and vote for this amendment.

We regularly hear about how flexible approaches make more sense and how States know what is best for their constituents. However, a vote for this particular amendment would appear to be a vote against that flexibility and a vote against States' rights; and I, for one, would be very curious to see what support it has and does not have from those who have always professed the opposite.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. TIERNEY. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, I want to express my concern about this amendment. I have read the amendment and I understand the concern which is behind it, but I would offer this cautionary note, that States feel very strongly about their prerogatives with respect to oversight and enforcement. States' attorneys general, the attorneys at various district levels, county health officials, are all very much involved in enforcement processes, and as a matter of fact, I think one can argue that in some cases, they are the closest to it.

So to amend this law by taking the State out of it, by saying no State may impose a civil penalty on a small business concern, and then it goes on in a manner inconsistent with the provisions of this subsection, it takes the power away from the States. I think that we should be very cautious about doing that without having full hearings on this to hear testimony from State officials as to how this could impact their ability to enforce the law.

Mr. Chairman, I think there are instances where Congress needs to respect the rights of the States, and certainly this amendment calls into question whether we are really doing that; and for that reason, I have to reluctantly oppose the amendment by the gentleman from Indiana (Mr. MCINTOSH), my good friend.

The CHAIRMAN pro tempore. Does any Member seek recognition?

If not, the question is on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MCINTOSH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, further proceedings on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 offered by the gentleman from Ohio (Mr. KUCINICH), and an amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. KUCINICH

The CHAIRMAN pro tempore. The pending business is the request for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings after this 15-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 221, not voting 26, as follows:

[Roll No. 72]

AYES—183

Abercrombie	Fattah	McCarthy (MO)
Ackerman	Fazio	McCarthy (NY)
Allen	Filner	McGovern
Andrews	Frank (MA)	McHale
Baesler	Frost	McIntyre
Baldacci	Furse	McKinney
Barcia	Gejdenson	McNulty
Barrett (WI)	Gephardt	Meehan
Bentsen	Gilchrest	Meek (FL)
Berman	Gordon	Meeks (NY)
Berry	Green	Menendez
Bishop	Gutierrez	Miller (CA)
Blagojevich	Hall (OH)	Minge
Blumenauer	Hastings (FL)	Mink
Boehlert	Hefner	Moakley
Bonior	Hilliard	Moran (VA)
Borski	Hinchey	Morella
Boswell	Hinojosa	Murtha
Boucher	Holden	Nadler
Brown (CA)	Hooley	Neal
Brown (OH)	Hoyer	Oberstar
Capps	Jackson (IL)	Obey
Carson	John	Ortiz
Clay	Johnson (WI)	Owens
Clayton	Kanjorski	Pallone
Clement	Kaptur	Pascrell
Clyburn	Kennedy (MA)	Pastor
Condit	Kennedy (RI)	Pelosi
Costello	Kennelly	Peterson (MN)
Coyne	Kildee	Pomeroy
Cramer	Kilpatrick	Poshard
Cummings	Kind (WI)	Price (NC)
Davis (FL)	Kleczka	Rahall
Davis (IL)	Klink	Redmond
DeFazio	Kucinich	Rivers
DeGette	LaFalce	Rodriguez
Delahunt	Lampson	Rothman
DeLauro	Lantos	Roybal-Allard
Deutsch	Lazio	Rush
Diaz-Balart	Levin	Sabo
Dicks	Lewis (GA)	Sanchez
Dingell	Lipinski	Sanders
Dixon	Lofgren	Sandlin
Doggett	Lowey	Sawyer
Dooley	Luther	Schumer
Doyle	Maloney (CT)	Scott
Edwards	Maloney (NY)	Serrano
Engel	Manton	Shays
Eshoo	Markey	Sherman
Etheridge	Martinez	Skaggs
Evans	Mascara	Skelton
Farr	Matsui	Slaughter

Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Becerra
Brown (FL)
Cannon
Cardin
Conyers
Cook
Crapo
DeLay
Ford
Gillmor
Gonzalez
Harman
Houghton
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
McDermott
Millender-McDonald
Olver
Paxon
Payne
Rangel
Reyes
Riggs
Royce
Waters

□ 1325

Mr. KIM and Mr. HORN changed their vote from "aye" to "no."

Mr. LIPINSKI and Mr. DIAZ-BALART changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COOK. Mr. Chairman, on rollcall No. 72, Kucinich amendment to H.R. 3310, had I been present, I would have voted "No."

I was giving a speech to the National Equipment Manufacturers at the Carleton Hotel at 16th & K; my beeper simply did not function, possibly because of being inside a center room on the ground floor. I am a bit miffed because it broke my 100% voting record!

AMENDMENT OFFERED BY MR. MCINTOSH

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 179, not voting 27, as follows:

[Roll No. 73]

AYES—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—179

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Condit
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney

Torres	Watt (NC)	Wise
Towns	Waxman	Woolsey
Velázquez	Weldon (PA)	Wynn
Vento	Wexler	Yates
Visclosky	Weygand	

NOT VOTING—27

Becerra	Gillmor	Millender-McDonald
Bonilla	Gonzalez	Olver
Brown (FL)	Harman	Paxon
Cannon	Houghton	Payne
Cardin	Jackson-Lee (TX)	Rangel
Conyers	Jefferson	Riggs
Cook	Johnson, E. B.	Royce
Crapo	McDermott	Sanders
Ford		Waters
Frelinghuysen		

□ 1337

Mr. SHAYS changed his vote from "aye" to "no."

Mr. DIAZ-BALART changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COOK. Mr. Chairman, on rollcall No. 73, McIntosh Amendment to H.R. 3310, had I been present, I would have voted yes. I was giving a speech to National Equipment Manufacturers at the Carleton Hotel at 16th & K. My beeper simply did not function, possibly because of being inside a center room on the ground floor. I'm a bit miffed because it broke my 100% voting record!

The CHAIRMAN pro tempore (Mr. DICKEY). Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. DICKEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3310) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, pursuant to House Resolution 396, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCINTOSH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes 140, not voting 23, as follows:

[Roll No. 74]

AYES—267

Aderholt	English	Latham
Armey	Ensign	LaTourette
Bachus	Etheridge	Lazio
Baker	Everett	Leach
Ballenger	Ewing	Lewis (CA)
Barr	Fawell	Lewis (KY)
Barrett (NE)	Foley	Linder
Bartlett	Forbes	Livingston
Barton	Fossella	LoBiondo
Bass	Fowler	Lucas
Bateman	Fox	Luther
Bereuter	Franks (NJ)	Maloney (CT)
Berry	Frelinghuysen	Manzullo
Bilbray	Frost	McCollum
Bilirakis	Gallegly	McCrery
Bishop	Ganske	McDade
Bliley	Gekas	McHale
Blunt	Gibbons	McHugh
Boehner	Gilchrest	McInnis
Boswell	Gilman	McIntosh
Boyd	Goode	McIntyre
Brady	Goodlatte	McKeon
Bryant	Goodling	Metcalf
Bunning	Gordon	Mica
Burr	Goss	Miller (FL)
Burton	Graham	Minge
Buyer	Granger	Mollohan
Callahan	Green	Moran (KS)
Calvert	Greenwood	Moran (VA)
Camp	Gutknecht	Morella
Campbell	Hall (OH)	Murtha
Canady	Hall (TX)	Myrick
Capps	Hamilton	Nethercutt
Castle	Hansen	Neumann
Chabot	Hastert	Ney
Chambliss	Hastings (WA)	Northup
Chenoweth	Hayworth	Norwood
Christensen	Hefley	Nussle
Clayton	Herger	Oxley
Clement	Hill	Packard
Coble	Hilleary	Pappas
Coburn	Hobson	Parker
Collins	Hoekstra	Paul
Combest	Holden	Paxon
Condit	Horn	Pease
Cook	Hostettler	Peterson (PA)
Cooksey	Hulshof	Petri
Cox	Hunter	Pickering
Cramer	Hutchinson	Pickett
Crane	Hyde	Pitts
Cubin	Inglis	Pombo
Cunningham	Istook	Pomeroy
Danner	Jenkins	Porter
Davis (FL)	John	Portman
Davis (VA)	Johnson (CT)	Price (NC)
Deal	Johnson (WI)	Pryce (OH)
DeLay	Johnson, Sam	Quinn
Deutsch	Jones	Radanovich
Diaz-Balart	Kelly	Ramstad
Dickey	Kim	Redmond
Dooley	Kind (WI)	Regula
Doolittle	King (NY)	Riggs
Doyle	Kingston	Riley
Dreier	Klink	Roemer
Duncan	Klug	Rogan
Dunn	Knollenberg	Rogers
Ehlers	Kolbe	Rohrabacher
Ehrlich	LaHood	Roukema
Emerson	Largent	Ryun
Salmon	Smith, Adam	Thune
Sanchez	Smith, Linda	Thurman
Sandlin	Snowbarger	Tiahrt
Sanford	Solomon	Traficant
Saxton	Souder	Turner
Scarborough	Spence	Upton
Schaefer, Dan	Spratt	Walsh
Schaffer, Bob	Stabenow	Wamp
Sensenbrenner	Stearns	Watkins
Sessions	Stenholm	Watts (OK)
Shadegg	Stump	Weldon (FL)
Shaw	Sununu	Weldon (PA)
Shimkus	Talent	Weller
Shuster	Tanner	Weygand
Sisisky	Tauscher	White
Skeen	Tauzin	Whitfield
Skelton	Taylor (MS)	Wicker
Smith (MI)	Taylor (NC)	Wolf
Smith (OR)	Thomas	Young (AK)
Smith (TX)	Thornberry	Young (FL)

NOES—140

Abercrombie	Hefner	Ortiz
Ackerman	Hilliard	Owens
Allen	Hinchey	Pallone
Andrews	Hinojosa	Pascrell
Baesler	Hooley	Pastor
Baldacci	Hoyer	Pelosi
Barcia	Jackson (IL)	Peterson (MN)
Barrett (WI)	Kanjorski	Poshard
Bentsen	Kaptur	Rahall
Berman	Kennedy (MA)	Reyes
Blagojevich	Kennedy (RI)	Rivers
Blumenauer	Kennelly	Rodriguez
Boehlert	Kildee	Ros-Lehtinen
Bonior	Kilpatrick	Rothman
Borski	Kleczka	Roybal-Allard
Boucher	Kucinich	Rush
Brown (CA)	LaFalce	Sabo
Brown (OH)	Lampson	Sanders
Carson	Lantos	Sawyer
Clay	Levin	Schumer
Clyburn	Lewis (GA)	Scott
Costello	Lipinski	Serrano
Coyne	Lofgren	Shays
Cummings	Lowey	Sherman
Davis (IL)	Maloney (NY)	Skaggs
DeFazio	Manton	Slaughter
DeGette	Markey	Smith (NJ)
Delahunt	Martinez	Snyder
DeLauro	Mascara	Stark
Dicks	Matsui	Stokes
Dingell	McCarthy (MO)	Strickland
Dixon	McCarthy (NY)	Stupak
Doggett	McGovern	Thompson
Edwards	McKinney	Tierney
Engel	McNulty	Torres
Eshoo	Meehan	Towns
Evans	Meek (FL)	Velázquez
Farr	Meeks (NY)	Vento
Fattah	Menendez	Visclosky
Fazio	Miller (CA)	Watt (NC)
Filner	Mink	Waxman
Frank (MA)	Moakley	Wexler
Furse	Nadler	Wise
Gejdenson	Neal	Woolsey
Gephardt	Oberstar	Wynn
Gutierrez	Obey	Yates
Hastings (FL)	Olver	

NOT VOTING—23

Archer	Gillmor	McDermott
Becerra	Gonzalez	Millender-McDonald
Bonilla	Harman	Payne
Brown (FL)	Houghton	Rangel
Cannon	Jackson-Lee (TX)	Royce
Cardin	Jefferson	Waters
Conyers	Johnson, E. B.	
Crapo	Kasich	
Ford		

□ 1359

The Clerk announced the following pairs:

On this vote:

Mr. Royce for, with Mr. McDermott against.

Mr. Bonilla for, with Mr. Rangel against.

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend chapter 35

of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes.''

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3310, the bill just passed.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 1757, FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization (NATO) proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 385 waives all points of order against the conference report that accompanies this bill, the Foreign Affairs Reform and Restructuring Act of 1998, and against its consideration. The rule also provides that the conference report be considered as read. This of course is the traditional type of rule for considering conference reports and will allow expedited consideration of this legislation.

Mr. Speaker, on the conference report itself, I am pleased to say that I will be able to support a State Department authorization bill for the first time in many, many years. I am not in the habit of voting for foreign aid of any kind, and I am not in the habit of voting for the State Department authorization bill. But I think all Members ought to listen up, particularly those of conservative persuasion who may have some concern about this bill.

First of all, one reason I support it is because of the excellent work by the gentleman from New York (Mr. GILMAN), the gentleman from New Jersey (Mr. SMITH) and the rest of the conferees who have managed to retain some very excellent provisions relating to NATO expansion overseas, abortion issues and the United Nations. I am most pleased with the retention of the provision of the European Security Act, which supports something near and dear to my heart, and that is the expansion of NATO, which will guarantee peace in that part of the world for many years to come.

Twice in this century, American soldiers have gone to war on behalf of Europeans, and we fought a very, very costly financial war with the Cold War. The European Security Act designates Estonia, Latvia, Lithuania and Romania as eligible countries for transition assistance under the NATO Participation Act of 1994. It further expresses a sense of Congress that those four countries should be invited to become full NATO members at the earliest possible time.

Mr. Speaker, as we see democracy breaking out all over Eastern Europe, in countries that were enslaved by communism for decades, it is morally and strategically imperative that we do not shut these people out of the Western system, that we not draw a line in the sand as we did back in Yalta, which created this terrible situation of enslaving tens of millions of people behind this philosophy of deadly atheistic communism. Especially as they struggle valiantly to establish democracy and reform their economies, these great friends of America need security and stability.

That in itself is reason enough to come over here and vote yes on this bill. NATO of course is the key to security and stability in that part of the world. For 49 years, it has kept peace and helped nourish democracy and prosperity in Europe. Some say, let us shut it down, or let us keep the status quo. Mr. Speaker, some over in the other body wish to establish some sort of pause after Poland and the Czech Republic and Hungary get in. What an irresponsible and myopic policy that would be. We must not let that happen. That in itself is sending signals that we are willing to once again draw that line in the sand, and we cannot let that happen. In addition to betraying the people of that region, after decades of Communist slavery, leaving a gray area in Central Europe will only tempt demagogues and potential aggressors in that region and make it more, yes, more likely that United States soldiers will have to fight in Europe once again.

To those who say why should U.S. soldiers die for Danzig or Bucharest or Riga, I say they are right, they should not, and if they do not want it to happen, support NATO expansion that appears in this bill, because that is exactly what this bill does.

This conference report also retains the very strong restrictions supported by the gentleman from New Jersey (Mr. SMITH) on funding of overseas abortions and advocacy of abortions. There is not a more principled Member of this body than the gentleman from New Jersey. I commend him for standing up for what is right for the children of this Nation.

Finally, I am pleased that this conference report places strict conditions on the payment of our supposed arrears to the U.N. Members ought to listen up, because I am the author of the Kassebaum-Solomon amendment that has withheld dues from the United Nations until they cleaned up their house and they put their house in fiscal order. Yet I am the one standing up here today saying we ought to support this bill. It is because of what is written into this bill.

I have a great deal of trouble with paying these so-called arrears to the U.N., given its history of waste and abuse and, frankly, its lack of gratitude for all the expenses and danger on our troops that we incur in support of U.N. resolutions.

I also have trouble handing out any more money over to an organization whose Secretary General Kofi Annan has just cut an appeasement deal with Saddam Hussein, said that Saddam Hussein is a man he can work with and called U.S. weapons inspectors cowboys. That is what this head of the U.N. said? He ought to be horse whipped for saying it. I resent that, Mr. Speaker.

The gentleman from New York (Mr. GILMAN) and the conferees have done excellent work in placing strings on the money, strings that will help reduce bureaucracy, help reduce waste and abuse at that U.N. I am particularly pleased that they have retained my legislation, which would prevent any arrearages from going to the U.N. if that body attempts to create taxes on American citizens, and they are talking about that, as my colleagues know. We know that U.N. bureaucrats would like to do exactly that. This legislation is a shot across the bow. Do not try it.

The conferees have also included, and this is very, very important, conditions requiring that the U.N. reduce the U.S. share of the peacekeeping budget down

to 25 percent and that the regular budget be no more than 20 percent. All fiscal conservatives, if they are listening, that is the reason they ought to come over here and vote for this bill.

What is extremely important is that the conference report also requires the President to seek and obtain a commitment from the United Nations that it will provide reimbursement to the United States for the costs incurred by our military in support of U.N. missions. Right now we get no credit. We just pay all that extra money in and it is a terrible, terrible drain on our military budget to do so. This bill says that they will take into consideration all of the moneys that we pay in in that respect and reimburse us for it. These and other conditions which should lead us to spending less on the United Nations in the future, as well as the previously mentioned support for NATO expansion, and the excellent anti-abortion provisions are why I grudgingly support this measure.

Mr. Speaker, in sum, this is a good conference report. I urge adoption of the rule so that we can get on with the expedited consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman from New York (Mr. SOLOMON) for yielding me this time, and I yield myself such time as I may consume.

This resolution, H.Res. 385, is a rule that provides for consideration of the conference report on H.R. 1757, which authorizes appropriations, it makes policy changes for the State Department and related agencies. As the gentleman has described, this rule waives all points of order against the conference report. The bill, in my opinion, has some good sections and good ideas, especially humanitarian ideas and humanitarian concerns and human rights. I do have some concerns, though, about the bill and about the process. In his statement to the Committee on Rules, the gentleman from Indiana (Mr. HAMILTON), the ranking minority member of the Committee on International Relations, said that the conference report was rushed through a highly partisan process without any consultation with the minority. The gentleman from Indiana stated that Democrats had almost no opportunity to review the language in the report. I am also very concerned about the reduced funding levels that will cause cuts in American embassies. In this area of global uncertainty, our need for strong worldwide diplomatic presence has never been greater.

I want to take this opportunity to address a particularly difficult issue related to this bill. This is the stalemate between Congress and the administration over restrictions on international family planning and the payment of U.S. dues to the United Nations and funding for the International Monetary Fund. I am considering an alternative proposal that would allow some restrictions on family planning funds and that would require all future IMF financial packages to include microcredit programs to the poorest of the poor. Both sides could win something and the larger national and international interests would be advanced. I suggest microcredit programs because of their success, particularly with women. These small loans help women to invest in projects which can double or triple their family income. It helps pull families out of poverty. It reduces abortion and reduces the size of families.

Most individuals on both sides of this issue act out of deep convictions, and they should. Perhaps there is no middle ground on this fundamental issue. But as legislator, we are charged with finding a middle ground on legislation and there is a difference. We need to support the United Nations. Despite its problems, it is the best hope for peace in many of the troubled regions of the world. We need to support the International Monetary Fund. The IMF stands as a buffer between the financial shock in Asia and the world economy, including the United States. Lives are affected by the decisions on population planning funds. But the greater number of lives today and among future generations are threatened by our failure to deal with the bigger issues involved. Congress and the administration must be open to creative solutions to resolve this stalemate.

If my proposal is not satisfactory, then both sides need to work together to explore other options. I urge both sides to find common legislative ground so that we can pay our debts to the United Nations and fund the International Monetary Fund.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), one of the most respected and distinguished Members of this body who has been here for about 16 years now. He has led the fight for the children of this country and for human rights for all American people.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from New York (Mr. SOLOMON) for those kind remarks. My sentiments are the same for him. He has always been a champion for human rights in China and in other captive nations. I applaud and deeply respect him for that work. I also want to thank the gentleman from Ohio (Mr. HALL) for his support for the rule and the bill, H.R. 1757, and for pointing out that there are a large number of very important human rights provisions in this bill that Members should be aware of, that will advance the goals that we care about so deeply with regard to human rights around the globe.

□ 1415

First, let me just make this point to all of my colleagues that this is not, per se, a foreign aid bill. It is a State Department bill. It contains important restrictions on foreign aid but authorizes no appropriations for these purposes except for a $38 million package of humanitarian assistance for the anti-Saddam Hussein, pro-democracy movement in Iraq.

The bill contains a compromise version of the pro-life Mexico City, cutting off funds to foreign organizations that promote abortion—lobby for abortion or attempt to influence legislation or policy as it relates to abortion. The compromise would allow the President to waive the prohibition on assistance to abortion providers. This was very hard for our side to concede, but in the legislative tug of war this is half a loaf, and our hope is that the administration will take note of that. There needs to be some give and take.

This bill also conditions funding to the U.N. Population Fund on an end to the UNFPA activities in cooperation with the coercive population control program in China.

Wei Jing Sheng testified before our subcommittee a few weeks ago and was absolutely aghast and appalled and outraged that the UNFPA worked side by side with the oppressors of women in the People's Republic of China, and said so in very, very clear and unambiguous language at the subcommittee. Wei asked how the U.N. could join and support the oppressors of women, babies—the family.

H.R. 1757 also contains U.N. reform and arrearages packages which, unlike some proposals, is not a blank check to the U.N. The U.N. arrearage money is delivered, in 3 tranches. Each payment is contingent on U.N. implementation of specific reforms, including reduction of U.S. dues from its current 25 percent to ultimately 20 percent but 22 percent on the near term, and a reduction of U.S. peacekeeping assessments from 31 percent down to 25 percent.

The bill reduces the number of Federal agencies by two. It merges the Arms Control and Disarmament Agency and USIA, U.S. Information Agency, into the State Department to achieve savings through efficiency and resource sharing. But it structures this merger very carefully to preserve the integrity of arms control process and especially of the pro-freedom and pro-democracy functions of USIA's public diplomacy programs like the radios.

This legislation enhances Radio Free Asia to provide a 24-hour pro-freedom broadcasting to China.

It also contains provisions designed to force deadbeat diplomats at the U.N. to pay child support judgments and to ensure that diplomats who commit crimes in the U.S. will be prosecuted for those crimes.

It reforms the State Department personnel law to restore the Secretary's

power to fire convicted felons from the Foreign Service and to eliminate duplicative pension and salary provisions that allow double dipping at taxpayers' expense.

It contains provisions that will ensure vigorous enforcements of the Helms–Burton law which is designed to bring freedom and democracy to the Cuban people.

It sets aside $100 million of the State Department budget for implementation of the congressional directive that the U.S. Embassy in Israel be moved to Jerusalem, and it incorporates the McBride principles designed to end employment discrimination against Catholics in northern Ireland as a condition of U.S. foreign aid.

H.R. 1757 also includes a number of important provisions relating to human rights and refugees from Tibet, Burma, Vietnam, Cuba, Africa and elsewhere. These provisions have been endorsed by leading organizations, including the U.S. Catholic Conference, the Council of Jewish Federations, the Lutheran Immigration and Refugee Service, and the U.S. Committee for Refugees.

Mr. Chairman, I urge a yes on the rule, and I hope the Members will also vote yes on the conference report.

Mr. SOLOMON. Mr. Speaker, I yield another 2 minutes to the gentleman from New Jersey (Mr. SMITH) for the purpose of a colloquy with the chairman of the committee, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise to join my friend and colleague on this measure, and I understand the gentleman from New Jersey wants to engage in a colloquy.

Mr. SMITH of New Jersey. Yes. First of all, I want to call attention to the language, Mr. Speaker, that deals with incorporation of the U.S. Information Agency into the State Department.

Mr. Speaker, the conference committee on H.R. 1757 carefully structured the merger of the U.S. Information Agency into the State Department so as to preserve the integrity of the pro-freedom, pro-democracy public diplomacy activities now carried out by USIA. This bill should not be interpreted as an authorization for the State Department to take the money and run by converting USIA resources into a massive domestic State Department public relations operation.

Accordingly, the programs to which the Smith-Mundt and Zorinsky amendments apply must be construed broadly in accordance with the purpose of the legislation to ensure that these important protections continue to apply to the activities now conducted by USIA once they have been incorporated into the State Department.

This is a matter on which a number of House conferees on both sides of the aisle felt very strongly. We should never have agreed to incorporate USIA into the State Department except on the understanding that the integrity of all USIA functions will be preserved. "Programs" means not just the materials that USIA produces and disseminates, but also the resources, including personnel and support services, that are necessary to conduct our public diplomacy abroad. I would ask the gentleman from New York (Mr. GILMAN) to comment on this very important provision.

Mr. GILMAN. Mr. Speaker, the gentleman's understanding is correct. USIA is to be incorporated into the State Department for protection for the integrity of its activities. The managers in this legislation do not contemplate any diminution of our public diplomacy activities or an expansion of the State Department's public affairs activities as a result of this merger.

I understand we have a bipartisan consensus on the issue both in the House and in the other body, and will engage in vigorous oversight to make sure the purpose of this legislation is faithfully implemented.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the distinguished chairman.

Mr. Speaker, I urge a "yes" vote on H.R. 1757, the Foreign Relations Authorization Act (FY 1998–99).

I would like to call attention to several important features of the bill:

First, this legislation is not a foreign aid bill. It contains several important restrictions on foreign aid, but authorizes no appropriations for these purposes—except for a $38 million package of humanitarian assistance to the anti-Saddam Hussein pro-democracy movement in Iraq.

This bill contains a compromise version of the pro-life "Mexico City Policy", cutting off funds to foreign organizations that perform or promote abortion. It enacts this policy as permanent law—not just for this year but forever. The compromise would allow the President to waive the prohibition on assistance to abortion providers—but not promoters—in exchange for a reduction in total population assistance.

This bill also conditions funding to the United Nations Population Fund (UNFPA) on an end to UNFPA activities in co-operation with the coercive population control program of the government of China, or on an end to forced abortions in that program.

Mr. Speaker, H.R. 1757 contains a U.N. reform and arrearages package which, unlike some other proposals, is not a blank check to the U.N. The U.N. arrearage money is delivered in three "tranches"; each payment is contingent on U.S. implementation of specific reforms, including reduction of U.S. dues from 25% to 22%, reduction of U.S. peacekeeping assessments from 31% to 25%, and an end to U.N. "global conferences" after 1999.

The bill reduces the number of federal agencies by two. It merges the Arms Control Agency and the U.S. Information Agency into the State Department, to achieve savings through efficiency and resource-sharing. But it structures this merger carefully, to preserve the integrity of the arms control process and especially of the pro-freedom and pro-democracy functions of USIA's "public diplomacy" programs.

This legislation enhances Radio Free Asia to provide 24-hour pro-freedom broadcasting to China. It also contains provisions designed to force "deadbeat diplomats" at the U.N. to pay U.S. child support judgments, and to ensure that diplomats who commit crimes in the United States will be prosecuted for these crimes.

It reforms State Department personnel law to restore the Secretary's power to fire convicted felons from the Foreign Service, and to eliminate duplicative pension and salary provisions that allow "double-dipping" at taxpayer expense.

It contains provisions that will ensure vigorous enforcement of the Helms-Burton law, which is designed to bring freedom and democracy to the Cuban people.

It sets aside $100 million of the State Department's budget for implementation of the Congressional directive and that U.S. embassy in Israel be moved to Jerusalem.

It incorporates the "McBride Principles", designed to end employment discrimination against Catholics In Northern Ireland, as a condition of U.S. foreign aid.

H.R. 1757 also includes a number of important provisions relating to human rights and refugees from Tibet, Burma, Vietnam, Cuba, Africa, and elsewhere. These provisions have been endorsed by organizations including the U.S. Catholic Conference, the Council of Jewish Federations, the Lutheran Immigration and Refugee Service, and the U.S. Committee for Refugees.

Mr. Speaker, I urge a "yes" vote on the rule and on the conference report.

Mr. SOLOMON. Mr. Speaker, if the chairman of the Committee on International Relations will stay on his feet, I yield 2 minutes to the very distinguished gentleman from New York (Mr. GILMAN). He is one of the few Members who has been a Member of this body longer than I have, and he has truly been a great, great leader in the field of foreign policy.

Mr. GILMAN. Mr. Speaker, I rise to urge my colleagues to support the rule on the conference report on the Foreign Relations Authorization Act. This measure reflects the serious efforts of Members of both sides of the aisle and the administration to try to craft a workable foreign affairs agency consolidation, to also provide reasonable funding levels to sustain our overseas operations and embassies, and to provide necessary forms linked to payment of our arrearages to the United Nations.

I think it is shortsighted of the administration to threaten a veto on this comprehensive measure because they are unwilling to work on a family planning compromise. This Congress needs to advance the authorities, to consolidate the foreign affairs agencies in

keeping with the President's decision to merge those agencies and to hold the United Nations accountable for reforms while committing to the payment of arrearages.

Accordingly, I urge our colleagues to vote yes on this important rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. SLAUGHTER) a member of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to House consideration of H.R. 1757, the Foreign Affairs Reform and Restructuring Act. This bill seeks to send our Nation's foreign policy back to the dark ages of women's reproductive health. This act would reinstate the Reagan-era Mexico City policy which seeks to limit the reproductive freedom of women in other nations, but it goes even further than Mexico City in posing arbitrary and cruel restrictions on women's legal health choices.

Not only does H.R. 1757 ban U.S. foreign assistance to any organization that engages in any kind of lobbying on the issue of abortion, but it defines lobbying to cover attending conferences or workshops, drafting and distributing materials on abortion laws. It is not enough that the majority wants to deny women access to reproductive health services, now they want to restrict the freedom of assembly and speech for women's health organizations.

We have this same debate time and time again on the House floor, and yet still many cannot grasp the critical importance of providing full and balanced information on reproductive health to women in developing nations.

This is a matter of life and death for many women. Denying access to vital health information and services will lead to the cruelest birth control of all: death. If we do not fund family planning organizations, women in the developing world will and are suffering.

For my colleagues who profess to be proponents of children's health, I would note that the availability of contraception has important health benefits for both women and their families. By spacing births, infant survival improves dramatically and families can ensure that they have the resources to support their children.

Studies indicate that spacing births at least 2 years apart could prevent an average of 1 in 4 infant deaths. Studies have also proved time and again that access to family planning reduces abortion. In Russia, where for decades abortion was the primary form of birth control, contraception first became widely available in 1991. Between 1989 and 1995 abortions in Russia dropped from 4.43 million per year to 2.7 million per year, a decrease of 16 percent.

Someone must speak for the millions of women around the world who desperately want access to family planning. Pregnancy and childbirth are still a very risky proposition for women in many parts of the globe that often lack electricity, clean running water, medical equipment or trained medical personnel.

The statistics are grim. In Africa, women have a 1 in 16 chance of death from pregnancy in childbirth during their lifetime. Over 585,000 women die every year from complications of pregnancy and birth. For each woman who dies, 100 others suffer from associated illnesses and permanent disabilities, including sterility.

According to the United Nations Fund for Population Activities, family planning can prevent at least 25 percent of all maternal deaths, and many of these are women with families who then leave their children motherless.

How dare we in the United States, blessed as we are with information overload and the best health care system in the world, attempt to deny the only source of information and services to families in the developing world? Who are we to dictate the terms under which these groups provide essential services across the globe? We would be outraged, and rightly so, if the legislative body of any other nation had the audacity to impose its will over organizations operating legally in our country by dictating the terms under which those groups would continue to receive the financial support that they need to operate.

I urge my colleagues to vote no on the rule and send this proposal back to the committee for revision.

Other reasons that I have, Mr. Speaker, for not voting for this bill is that Democrat Members of this House were completely excluded from any participation in this conference report. Indeed, the Democrat Members were not even shown a copy of the conference report until after it was filed. All Democratic Members refused to sign the conference report, and the partisan procedure undermines the longstanding tradition of bipartisanship on foreign policy issues.

For these reasons and all others, Mr. Speaker, I urge a no vote on the rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT) a very distinguished Member from close by in Maryland and a member of the Committee on Armed Services.

Mr. BARTLETT of Maryland. Mr. Speaker, I want to rise in support of the rule but, reluctantly, in strong opposition to the bill itself. What this bill does is to unfence $100 million that was fenced in appropriations last year and sends it on its way to the United Nations. It also authorizes another roughly $900 million, and this was about a billion dollars total. All that stands between that and moving our taxpayers' money to the U.N. is the appropriation of that money. The GAO report indicated that from 1992 to 1995 we spent $6.6 billion on legitimate U.N. peacekeeping activities. We were credited with 1.8 billion of that against dues. That recognizes the legitimacy of these figures.

More recently, CRS, the Congressional Research Service, says that between 1992 and May of last year we spent $11.1 billion on legitimate U.N. peacekeeping activities.

□ 1430

The Department of Defense, the Pentagon itself, says that, last year, where he spent $3 billion dollars on legitimate U.N. peacekeeping activities. We are shortly going to vote on an emergency appropriations bill to cover the expenditures that are at $1.3 billion. We have spent, since 1992, about $14 billion on legitimate U.N. peacekeeping activities. We have been credited with only $1.8 billion of that against our dues.

What we want is a recognition in this bill that we may owe them some back dues, but they owe us five or more times as much money in legitimate expenditures against U.N. peacekeeping activities. We want an accounting of that before any of our hard-earned taxpayers' money goes to support the U.N.

What we get in return for this, if we vote this bill, is, by the admission of my friend, the gentleman from New Jersey, a really watered-down Mexico City language.

The President is going to veto this bill. The Senate voted 90 to 10 yesterday on a Helms amendment that there was no dues until there was a tally. That is an accounting. The Senate has voted 90 to 10.

All we would do in this vote is to send the message that we owe a billion dollars dues to the U.N., and we are not going to require an accounting. That is the wrong message to send.

It is not the message that the American people want sent. I have been on dozens of talk shows across the country. I have not had one caller that called in to say cough up a billion dollars for U.N. dues.

I have had unanimous support for our position that we need an accounting, we need an accounting before this becomes law. Please vote no on this bill. Do what they should have done, take it back to conference, and bring out a bill that the American people can support.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Speaker, there is some distance between myself and the gentleman who just completed speaking on this subject. While our interests may have differences, I certainly agree that we ought to reject the rule, and we ought to reject the bill.

This is both bad policy and bad process. Bad process often is ignored, but it

is usually a symptom of an inability to confront the real issues. It is wrong simply to take the Mexico City language and tie in knots our entire foreign policy apparatus.

Additionally, I would say that those who are in favor of the Mexico City language in this bill, as earnest as they are, their logic is faulty. If their argument is that any dollars going to organizations that help with family planning are fungible, and thereby even 1 cent to tell people about birth control policies actually increase the availability of abortion, one, statistically that is wrong. If you look at countries where there is more information for alternatives, for education, for contraception, there is less abortion.

But if you carry their argument to its illogical conclusion, you have to come away believing that even food assistance to these countries would somehow leave more dollars for family planning and other areas where there is an objection.

I think the United States has a right to come to an agreement on a family planning policy that may not necessarily reflect my own views completely. But what is clear here is that the Congress and this country is being hammered on this issue and preventing us from moving forward on the fundamental foreign policy of the Nation.

There are serious issues at hand here. I have differences with the substance of the underlying legislation, but it seems to me that, as a Congress, the lesson we should have learned in the great government shutdown was that the losers are, one, the American people. And they get very annoyed at the political participants who will not compromise.

The right action to take is to reject this, to come forward with legislation the President will sign. After all, the constitutional responsibilities on us are such that we need to negotiate and come to a compromise and then, try as they might, force their particular family language on the rest of us.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from New York, the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, for regular C-SPAN viewers they are going to think this Congress is topsy-turvy because, usually it is the gentleman in the well, the gentleman from Connecticut, that is standing up here arguing for this bill, and it is the JERRY SOLOMONS of this Congress that are standing up here arguing against it, and yet the tables are turned here.

Besides that issue, and the gentleman makes his point, and I do not question the gentleman's philosophy, but ordinarily he would be supporting this bill. What is the gentleman opposed to, other than that? The European Security Act is so terribly, terribly important. I know the gentleman shares my view on that and shares President Clinton's view as well.

The SPEAKER pro tempore (Mr. EWING). The time of the gentleman from Connecticut (Mr. GEJDENSON) has expired.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. Gejdenson).

Mr. GEJDENSON. Mr. Speaker, I think, first of all, for us to effectuate a policy, it is clear that we need to have a product that can either be signed by the President or have a congressional override. Since it is clear there will be no congressional override on this legislation, what we are essentially doing is playing chicken in the center of the road until there is some calamity.

I might tell the gentleman from New York one story. One of our officers at the State Department during the great government shutdown, I do not know if this really caused it, was on his way to meet with the Kurds to try to broker a deal where the Kurds would all come together.

Well, we had the government shutdown, and it turned out that his travel plans were deemed nonessential, and the meeting never happened, and that is where all the turmoil happened with some of the Kurds going over to the Iranians and others.

I would say that it is too important for the United States to continue to tie this up in a process that has excluded the minority party completely in this final presentation and that deals with an issue that we know will not become law.

Mr. SOLOMON. Mr. Speaker, if the gentleman would let me use up the balance of my time that I yielded him, I just think, in fairness to those Members that are watching the debate or those people back home, that the gentleman really ought to elaborate on the good points in the bill like the U.N. restrictions that we are making, things that I know you support. But all we talk is about the one issue.

Mr. GEJDENSON. I agree.

Mr. SOLOMON. I just wanted, sometime during debates, as TONY HALL did, perhaps the gentleman can say that we are not opposed to the main portion, of the bill, just that one portion. It would help, I think.

Mr. GEJDENSON. I think the honest answer is, however, that this activity we are involved in is not going to lead to a law. It is clear the President said he is going to veto it. It is clear that we do not have the votes to override it. So we are involved in an exercise, but it is not going to affect policy directly. We need to separate these two, both sides, the gentleman from New Jersey (Mr. Smith), who believes very strongly as he does, has shown his commitment; the President has shown his commitment. The only thing we are doing is avoiding the responsibility to deal with those other issues.

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman is saying we should not pass the bill because the President is going to veto it. I could also say, if the bill comes back without the pro-life position in it, I am not going to vote to pay these U.N. arrearages; and, therefore, we are at a stalemate. We have to work to compromise.

Mr. GEJDENSON. If the gentleman would yield, we have been in that fight, and that is why we need to separate the issues.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes again to the very distinguished gentleman from New Jersey (Mr. SMITH), chairman of the Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, first of all, I want to make very clear, when we talk about legislative process, the Mexico City policy was offered on this floor, it mustered a clear majority vote when it was considered. The House even went on record and instructed conferees to retain the policy in conference. So it was a very real and legitimate part of the House/Senate conference that occurred.

The flip side of it is that, on the issue of arrearages, that measure did not pass here but passed on the Senate, but we acceded to the Senate to move that ball forward.

Let me also make a point, when Members suggest that my friends on the other side of the aisle were locked out of the price, let me just note that I chaired the subcommittee that wrote the major product that emerged as the State Department authorization bill. We had five hearings that preceded the markup of the bill that is now before us.

My good friend, the gentleman from California (Mr. LANTOS), and the Democrats were absolutely free to ask any question, to be part of that process, as they so engaged themselves. We had a markup in subcommittee. Twenty one amendments were offered. That markup went very well and the bill passed onto the full committee.

We went to the full committee. During several days of markup we considered 22 amendments to the State portion of the bill. The bill came over to the floor. We spent 4 days on the floor of the House of Representatives. Members who wanted to offer amendments on the other side of the aisle were free to do so provided they were germane. A total of 34 amendments were offered, fully debated, recorded votes occurred.

We then went to conference. On issue after issue, our staffs, as well as Members, met, talked about language and sections of the bill. There were some things that we came to an impasse on. The major issue upon which deadlocked the conference was the Mexico City policy.

This House instructed the conferees to stay with that the pro-life position.

We did so on the State Department bill as well. So this is a clear manifestation of House sentiment. That is part of this bill.

I would argue that this has been a give-and-take. We have provided a compromise Mexico City policy. We also provide the arrearages, which is an anathema to many Members of this side of the aisle, and many on that side of the aisle as well, but there are some reform provisions that make it very meaningful.

So there is give-and-take in the legislative process. The President regrettably or some on the other side want it to be all give from us and all take by them. That's unacceptable. Let me again say very clearly 77 amendments were offered to this legislation in subcommittee, full committee, and on the floor. The gentleman's side of the aisle had every effort to participate.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule. The bill cuts family planning funding and imposes the gag rule on family planning organizations. It eliminates funding for the Arms Control and Disarmament Agency. The President has said very clearly that he will veto this bill.

Let us put this vote in perspective. This vote is the 82nd vote against choice in this body since 1995. This bill with this language in it is yet another attempt by extremists on the other side of the aisle to roll back a woman's reproductive choices, program by program, procedure by procedure. Now anti-choice extremists are trying to intimidate reproductive health workers restriction by restriction.

This agreement is a clear attempt to restrict the delivery of family planning information. It is misguided and just plain wrong. In developing countries, death from pregnancy-related causes is the single largest cause of death among women in reproductive ages.

Simply providing unhindered family planning information to all who need it could reduce maternal mortality by one-fifth. The proponents say they want to prevent abortions, but we all know that international family planning actually reduces the number of abortions around the world.

Recently, Mr. Speaker, I had the opportunity to speak with former Ambassador Wisner who represented our country in India. I asked him what was the single most important thing that we could do as a country in our foreign policy to aid the world's largest democracy? Quite frankly, I was surprised by his response.

He said family planning money. He said that, in India, you could go out into various cities and see families that were lined up for miles just trying to get basic information on family planning.

This language has absolutely no business being on the State Department authorization bill. I urge my colleagues to vote against it. I urge them to join the President in voting against it.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, the misguided Mexico City policy is not the only reason to oppose this bill. This bill will have a profoundly important impact on our nation's foreign policy.

We have heard today that this bill streamlines our foreign policy agencies.

Mr. Speaker, this bill streamlines our foreign policy agencies in the same way that last year's tax bill simplified the tax code. It is riddled with inconsistencies. For example, it claims to pay back dues to the United Nations, but actually increases them. It claims to streamline the State Department, but it establishes a new regulatory system to micromanage embassy staff. Never before have we tried to micromanage what the State Department can do with its individual embassies and their staffing policies.

It claims to get tough on war criminals like Saddam Hussein, but, actually, it cuts U.S. involvement in the international criminal justice system.

Furthermore, the reorganization plan has simply not been well thought out in my estimation.

We need only look to the genocide that occurred in Bosnia and Rwanda because of the hatred that was fanned by an evil propaganda machine. How, then, can we abolish the United States Information Agency? In reality, that is what we do by incorporating it within the State Department. It needs its independence.

Misinformation is best attacked at the grassroots level in an objective, credible fashion, not as part of a tightly controlled foreign policy agenda.

□ 1445

Our U.S. Information Agency should be able to provide the kind of information that relies upon local opinion leaders, not merely heads of state with all of their political agendas. I have great respect for the State Department, but USIA is independent for a reason. It guarantees that the focus will be on the unfettered, objective truth.

This bill zeroes out the Arms Control and Disarmament Agency at a time when nonproliferation efforts have never been more critical.

Mr. Speaker, I also am especially disappointed that we have not been able to include an agreeable compromise on the Mexico City policy. The conference agreement still includes the inhumane Mexico City language that denies some of the most destitute people in the world the ability to choose healthy and safe family planning practices while also denying them their health practitioners the fundamental right of free speech.

This is another of those misguided attempts that some people in the majority have made to deny economically disadvantaged women, both here and abroad, access to quality, reproductive health care and the information they need to plan their families.

The leadership knows that the Hyde amendment already ensures that no U.S. funding is being spent on abortions, and yet they would jeopardize final passage of this important legislation by including this regressive language under the guise of reducing the number of abortions performed with U.S. tax dollars. Studies have shown that family planning funds actually decrease the number of abortions performed. Private, non-governmental organization funds save lives and empower people. This bill does not let them accomplish this most critical mission and should be defeated.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), a very distinguished Member of this body, who is a member of the Committee on International Relations.

Ms. ROS-LEHTINEN. Mr. Speaker, I want to thank the gentleman from New York (Mr. SOLOMON), the very fair chairman of the Committee on Rules, for coming forth with a rule that all of us can adopt; and I would like to especially thank the Chairman of the Committee on International Relations, the gentleman from New York (Mr. GILMAN), who held a very long series of hearings on this bill where everyone had the opportunity to present amendments and discuss the controversial issues in this bill.

Mr. Speaker, there are some very good areas that we can all agree on, I think, in this conference report. I would like to especially thank our colleagues in the Committee on International Relations for allowing me to present and to have them approve, without problems, some amendments that I have dealing with the Castro dictatorship.

There are two provisions that I think are very important in establishing a firm position of U.S. policy toward that dictatorship. The first one stresses the concern of the United States Congress about Fidel Castro's completion of the very dangerous nuclear power plant in Juragua near Cienfuegos, Cuba.

Also, another amendment asked the Clinton administration to give us information about individuals and companies that are not complying with Helms–Burton, and this title IV gives us the opportunity to further protect U.S. property rights because these are people who are exploiting the Cuban worker and using illegally confiscated

U.S. property that used to belong to U.S. citizens. We want to make sure that folks have the opportunity to take their cases to court, and that the U.S. Government will bar entry to anyone who is not complying with our laws.

So I would like to thank the chairs of both committees, the Committee on Rules and the Committee on International Relations, for their very fair process; and I urge my colleagues to adopt both the rule and the conference report.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Ohio (Mr. HALL), a distinguished member of the Committee on Rules, for yielding to me, and I rise in opposition to the rule.

Mr. Speaker, I rise in opposition to the rule because this bill was put together without any involvement of the Democratic conferees. The Democrats did not see a copy of the 350-page conference report until after it was filed. Because all Democrats refused to sign the conference report, a member had to be replaced on the conference in order to obtain enough signatures to sign the report.

The process had started in a bipartisan manner. Unfortunately, it ended in a cynically political way. Sad to say that the Republican majority did not want to bring this bill to the floor in a bipartisan manner.

Mr. Speaker, there are many reasons to oppose this bill, and the many reasons why the Democrats refused to sign the bill will be spelled out by the distinguished ranking member, the gentleman from Indiana (Mr. HAMILTON) when we take up the bill. But while we are on the rule, I oppose the process under which it was brought to the Committee on Rules, and therefore, oppose it on the floor.

Mr. Speaker, one of the reasons to object to this bill is that giving our negotiators at the U.N. the tools they need to achieve reform, to reduce our financial obligations, and to achieve consensus on issues such as Iraq is what we should do in this bill. What it does instead is to denigrate the U.S. in the eyes of the world because Congress has insisted on micromanaging the U.N. once again.

Last fall, the Congress had the opportunity to get a good deal for the American taxpayer. With a reasonable amount of arrears in place and guaranteed by Congress, we had a good opportunity to achieve a lower assessment rate, concrete budget caps, and even negative growth in U.N. budgets. Congress made the mistake of not acting at that time, and now Congress is making another mistake with the provisions in this legislation.

The real impact of the inaction last fall was to raise the amounts owed by the United States by at least $100 million. The bill is increasing every day. Our responsibility now is to give our negotiators at the U.N. the funds and flexibility they need to get the best deal they can for the U.S. taxpayer. What this bill does, unfortunately, is guarantee that any reduction in U.S. assessment rates will not occur.

Mr. Speaker, this conference report also makes good on the Republican majority's threat to link two totally unrelated issues, the U.N. arrears and the funding for international family planning. This legislation includes an altered version of the Mexico City restrictions on international family planning. Supporters of this language offered today will call it a "compromise." We who support family planning call it totally unacceptable.

What we compromise with this language are the lives of poor women and families throughout the world. The impact of this language will be equally devastating as previous restrictive amendments on international family planning. It will impose a global gag rule on family planning organizations, dictating what materials they may distribute and prohibiting them from participating in public debates; and this is important, Mr. Speaker, with their own private funds. We would certainly find a gag rule like this in violation of the First Amendment were it implemented in our own country.

The use of U.S. funds to perform abortion has been prohibited by law since 1993. No U.S. funds are used for the performance of abortion or abortion-related activities. No U.S. funds are used to promote abortion. That is the law. So there is no need to have this restrictive gag rule put in place under the guise of supporting the language that I just mentioned. It is already the law.

The cuts in funding set in motion by this language will limit the ability of family planning and reproductive health services to poor women and families. It will reduce access and quality of services. Programs will be terminated which will cause the number of abortions to rise and the number of deaths from unsafe abortions to increase, exactly the reverse effect it would have if we put out the funds, unrestricted, for international family planning, which would reduce abortion; and I think that is the goal that we all share.

We have debated this issue many, many times over, at least six times in the first session of the 105th Congress last year. Each time, we stand here and agree that we want to reduce the number of abortions. Voluntary family planning programs do just that. They prevent unintended pregnancies, unsafe abortion and infant deaths. For these reasons, Mr. Speaker, I urge my colleagues to vote against this conference report.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have been sitting here listening patiently to speakers who oppose this rule and this legislation. The previous speaker, for whom I have the greatest respect has fought many battles, along with me, on human rights issues, and stated very clearly that, yes, it is the law of the land that U.S. tax dollars shall not be spent on abortions in America. And she is right. There are those of us that do not believe that U.S. tax dollars should be spent on abortions anywhere in the world; those are U.S. tax dollars. And yet we are hard-pressed to prevent that, and therein lies the argument.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, just to clarify the point, perhaps this is good news to the gentleman, there would be no Federal dollars spent internationally to perform abortions.

I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, I know the gentlewoman believes that, but I have traveled throughout this world and what I have seen just does not concur with that.

Nevertheless, we had another previous speaker from New York who said that someone had told her that there were lines 4 miles long, I believe she said, with people waiting to get information on family planning. I will tell my colleagues, as a member of the Committee on International Relations for many, many years, and someone who has been active for more than 20 years all around this world on these issues, I have never seen lines like that waiting for family planning information.

I find them in refugee camps waiting for food, but never have I seen anybody waiting for anything other than food in lines 4 miles long.

Mr. Speaker, let me just talk to the conservatives in this body about why they should come over here and vote for this bill. First of all, it does have the pro-life issue, and that is a compromise, and whether one is President of the United States or whether one is just a rank-and-file Member of this Congress, one has to learn to compromise. Ronald Reagan taught me that. We cannot always have it our own way, we have to give a little bit; and that is the success of legislating.

Secondly, this does reorganize the State Department somewhat. It is another step in the right direction to shrinking the size of the Federal Government and making it lean and workable, and that is what we are doing here. JESSE HELMS and Madeleine Albright both agree with what we are

doing. So that is another reason why conservatives should come over here.

But more than that, what this bill does, this is a 2-year authorization bill, so listen up, conservatives. What this bill says is that it must be certified to include that the United States has no plans to tax U.S. citizens. There are people all around this world that belong to the U.N. These leaders that want to have a worldwide tax, they want to tax my people up in the Adirondacks and Catskill Mountains; and in the Hudson Valley, they want to levy, have a tax. Some One World government wants to levy a tax. This bill says we cannot do that or else we do not give them any money; it is as simple as that. It says that nothing in the U.N. will assume sovereignty over U.S. parks and lands. That is very important to me and the people I represent. It says that if there is any violation of the U.S. Constitution, we will not pay any more dues. Now, conservatives ought to come over here and vote for that.

More importantly, in the 2-year authorization bill, in the first year, coming next year in 1999, this says there will be a reduction in the U.S. share of the peacekeeping budget, down to 25 percent. That means that we are going to get credit for all of this extra money that we are spending on U.S. troops in Bosnia and in all of these peacekeeping efforts.

□ 1500

In addition, this says we are going to reduce the United States' share of the regular U.N. budget down to 22 percent. That is in the first year of this 2-year authorization bill.

In the second year of this 2-year authorization bill, it says we are going to reduce that regular budget cost to the American taxpayer down another 2 percent, down to 20 percent. Conservatives, what more do we want? That is what we have been fighting for, to get a fair share of the burden shared by other countries throughout this world.

I can go on and on with the reasons that we ought to come over here and support the bill, but I think one of the best reasons of all is the fact that this bill caps U.S. contributions to all international organizations.

Let us face it, America pays most of the costs for all of these international organizations, whether it is the IMF, the World Bank, or any of the rest. This caps our total contributions to all of these cumulative organizations to no more than $900 million, and we are paying way over $1 billion now. We are reversing that sieve of U.S. tax dollars going out of this country. We are turning it around. That is the reason Members ought to come over here and vote for this bill.

I am going to talk to each of the conservative Members as they come through that door. I ask them to please come by and say hello to me, and I will further convince them.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 172, not voting 24, as follows:

[Roll No. 75]

YEAS—234

Aderholt	Ensign	LaTourette
Archer	Everett	Lazio
Armey	Ewing	Lewis (CA)
Bachus	Fawell	Lewis (KY)
Baker	Foley	Linder
Ballenger	Forbes	Lipinski
Barcia	Fossella	Livingston
Barr	Fowler	LoBiondo
Barrett (NE)	Fox	Lucas
Bartlett	Franks (NJ)	Manzullo
Barton	Frelinghuysen	McCollum
Bass	Gallegly	McCrery
Bateman	Ganske	McDade
Bereuter	Gekas	McHugh
Berry	Gibbons	McInnis
Bilbray	Gilchrest	McIntosh
Bilirakis	Gilman	McKeon
Blagojevich	Goode	Metcalf
Bliley	Goodlatte	Mica
Blunt	Goodling	Miller (FL)
Boehlert	Goss	Mollohan
Boehner	Graham	Moran (KS)
Brady	Granger	Morella
Bryant	Gutknecht	Myrick
Bunning	Hall (OH)	Nethercutt
Burr	Hall (TX)	Neumann
Burton	Hansen	Ney
Buyer	Hastert	Northup
Callahan	Hastings (WA)	Norwood
Calvert	Hayworth	Nussle
Camp	Hefley	Oberstar
Campbell	Herger	Oxley
Canady	Hill	Packard
Chabot	Hilleary	Pappas
Chambliss	Hobson	Parker
Chenoweth	Hoekstra	Paul
Christensen	Horn	Paxon
Coble	Hostettler	Pease
Coburn	Hulshof	Peterson (MN)
Collins	Hunter	Peterson (PA)
Combest	Hutchinson	Petri
Cook	Hyde	Pickering
Cooksey	Inglis	Pitts
Costello	Istook	Pombo
Cox	Jenkins	Porter
Crane	John	Portman
Cubin	Johnson (CT)	Poshard
Cunningham	Johnson, Sam	Pryce (OH)
Davis (VA)	Jones	Quinn
Deal	Kasich	Radanovich
DeLay	Kelly	Rahall
Diaz-Balart	Kildee	Ramstad
Dickey	Kim	Redmond
Doolittle	King (NY)	Regula
Dreier	Klug	Riggs
Duncan	Knollenberg	Riley
Dunn	Kolbe	Rogan
Ehlers	Kucinich	Rogers
Ehrlich	LaHood	Rohrabacher
Emerson	Largent	Ros-Lehtinen
English	Latham	Roukema
Ryun	Smith (OR)	Thune
Salmon	Smith (TX)	Tiahrt
Sanford	Smith, Linda	Traficant
Saxton	Snowbarger	Upton
Scarborough	Solomon	Walsh
Schaefer, Dan	Souder	Wamp
Schaffer, Bob	Spence	Watkins
Sensenbrenner	Stearns	Watts (OK)
Sessions	Stump	Weldon (FL)
Shadegg	Stupak	Weldon (PA)
Shaw	Sununu	Weller
Shays	Talent	White
Shimkus	Tauzin	Whitfield
Shuster	Taylor (MS)	Wicker
Skeen	Taylor (NC)	Wolf
Smith (MI)	Thomas	Young (AK)
Smith (NJ)	Thornberry	Young (FL)

NAYS—172

Abercrombie	Green	Ortiz
Ackerman	Greenwood	Owens
Allen	Gutierrez	Pallone
Andrews	Hamilton	Pascrell
Baesler	Hastings (FL)	Pastor
Baldacci	Hefner	Pelosi
Barrett (WI)	Hilliard	Pickett
Becerra	Hinchey	Pomeroy
Bentsen	Hinojosa	Price (NC)
Berman	Holden	Reyes
Bishop	Hooley	Rivers
Blumenauer	Hoyer	Rodriguez
Bonior	Jackson (IL)	Roemer
Borski	Johnson (WI)	Rothman
Boswell	Kanjorski	Roybal-Allard
Boucher	Kaptur	Rush
Boyd	Kennedy (MA)	Sabo
Brown (CA)	Kennedy (RI)	Sanchez
Brown (OH)	Kennelly	Sanders
Capps	Kilpatrick	Sandlin
Carson	Kind (WI)	Sawyer
Castle	Kingston	Schumer
Clay	Kleczka	Scott
Clayton	Klink	Serrano
Clement	LaFalce	Sherman
Clyburn	Lampson	Sisisky
Condit	Lantos	Skaggs
Coyne	Leach	Skelton
Cramer	Levin	Slaughter
Cummings	Lewis (GA)	Smith, Adam
Danner	Lofgren	Snyder
Davis (FL)	Lowey	Spratt
Davis (IL)	Luther	Stabenow
DeFazio	Maloney (CT)	Stark
DeGette	Maloney (NY)	Stenholm
Delahunt	Manton	Stokes
DeLauro	Markey	Strickland
Deutsch	Martinez	Tanner
Dicks	Mascara	Tauscher
Dingell	Matsui	Thompson
Dixon	McCarthy (MO)	Thurman
Doggett	McCarthy (NY)	Tierney
Dooley	McHale	Torres
Doyle	McIntyre	Towns
Engel	McKinney	Turner
Eshoo	Meehan	Velázquez
Etheridge	Meek (FL)	Vento
Evans	Meeks (NY)	Visclosky
Farr	Menendez	Watt (NC)
Fattah	Miller (CA)	Waxman
Fazio	Minge	Wexler
Filner	Mink	Weygand
Frank (MA)	Moran (VA)	Wise
Frost	Murtha	Woolsey
Furse	Nadler	Wynn
Gejdenson	Neal	Yates
Gephardt	Obey	
Gordon	Olver	

NOT VOTING—24

Bonilla	Gonzalez	McNulty
Brown (FL)	Harman	Millender-McDonald
Cannon	Houghton	Moakley
Cardin	Jackson-Lee (TX)	Payne
Conyers	Jefferson	Rangel
Crapo	Johnson, E. B.	Royce
Edwards	McDermott	Waters
Ford	McGovern	
Gillmor		

□ 1525

Messrs. RUSH, MILLER of California, HEFNER and VENTO changed their vote from "yea" to "nay".

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GILMAN. Mr. Speaker, pursuant to House Resolution 385, I call up the conference report on the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization (NATO) proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. EWING). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, March 10, 1998, at page H956).

The SPEAKER pro tempore. The gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

□ 1530

Mr. Speaker, today our committee brings before the House a conference report on the Foreign Affairs Reform and Restructuring Act of 1998. This measure has three major components. It provides for the consolidation of international affairs agencies. It provides funding in other authorities to support the State Department and related agencies, and it provides a U.N. reform and arrearage package.

Through this bill, support is provided for our government's activities abroad to include U.S. embassies, American citizens' services, passport and visa issuance, and international broadcasting programs, such as Radio Free Asia and broadcasting to Cuba.

In addition, it funds U.S.-Mexico and U.S.-Canada commissions that have been tasked with matters related to fisheries, sewage disposal, and other border issues. The bill authorizes $6.1 billion for fiscal year 1998 and $6.7 billion for fiscal year 1999. The authorized level for fiscal year 1999 is $125 million below the President's request.

Funding for a strong U.S. presence abroad is in our vital national interest and provides a platform for a myriad of U.S. overseas interests. Specifically, we need to have a healthy diplomatic presence abroad to develop markets to maintain stability, to protect our friends in this still dangerous world, and to meet humanitarian needs.

This bill incorporates the President's decision to consolidate the U.S. Information Agency and the Arms Control and Disarmament Agency into the State Department. The consolidation is the first step toward reforming the international affairs apparatus to meet the changed post-Cold War world.

The third major component of this conference report is the United Nations Reform Act of 1998, which includes payment of our U.N. arrears for reductions in our U.N. assessments, freezing of our overall payments to all international organizations, and the implementation of major reforms throughout the United Nations.

Mr. Speaker, according to a February GAO report on the U.N. financial status, our unpaid arrears have impeded progress in reducing our Nation's assessment rate and in encouraging other countries to pay their fair share of the costs of running this international organization. Many of our colleagues agree on the need for a plan to repay our debts to the U.N. which is linked to implementation of fundamental and thorough reform.

This conference report is a comprehensive multitrack approach that advances our Nation's interest while also overhauling the entire UN bureaucracy. It reduces our annual assessment to the U.N. down to 22 percent and ensures that our peacekeeping assessment rate would be capped at 25 percent. It also ensures that U.N. imposes no taxes or proposals for standing armies on member states. A further condition of the package is that the U.N. agrees that our arrears would be reduced to zero after implementation of the reform package.

In addition, this bill would cut through the underbrush of programs, commissions, and other committees that have grown up over the past 50 years, and it sunsets unneeded programs and strengthens the office of the U.N. Inspector General.

We can state that the American taxpayer comes out ahead with the full implementation of this U.N. reform package. The implementation of these reform proposals will save more money than the total of arrearages we are proposing to pay off over a 3-year period.

Accordingly, Mr. Speaker, I urge our Members to fully support this measure to ensure efficiencies in our foreign affairs agencies and to advance reforms with the United Nations.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to the conference report. This conference report is presented to us through a highly partisan process. I oppose it and I urge other Members to do the same.

We began last summer with a bipartisan product on this conference report. The conference committee did its work in a bipartisan basis. We halted our work at the end of July, as we got hung up on the Mexico City provisions. Since that time, not a single meeting of the conference has taken place.

The gentleman from New York (Mr. GILMAN) met with Senate Republican conferees in recent weeks to craft a Republican conference report. They gave no notice to the minority that they were reconvening the conference. They did not consult us in any way. They simply were not interested in the minority view.

In order to get this report to the floor, the Speaker of the House removed a very distinguished and senior member on the majority side from the conference committee. He appointed another member, and they were able to vote out the conference report because of the change in membership in the conference committee. With this kind of a process, Mr. Speaker, we are not deliberating, we are politicking; we are not making law, we are making political speeches; we are not working together, we are working separately.

Let me call to my colleagues' attention some of the troublesome issues, first with respect to the United Nations. This conference report creates more U.S. arrears to the United Nations. We are not going forward, we are creating larger arrears. And it fails to provide sufficient funds even for our current dues. It does not pay what we acknowledge we owe to the United Nations. It ties the funds to conditions which are very desirable in this Chamber and all of us would agree with them. The only problem is, those conditions are not doable in the context of the United Nations. When we pay late and in part and with imposed conditions, it is not likely that the United Nations is going to cancel hundreds of millions of dollars in debt that we say we will not pay.

The United States is already being called into question in the United Nations. We have already lost our position on the Committee on the Budget, perhaps the key committee of the United Nations. The Secretary General was here a week or 2 weeks ago, and he told us that we could lose our vote in the General Assembly.

Secondly, this conference report micromanages the State Department. It requires a whole new bureaucracy to report every single time a U.S. government official from any agency travels to an international conference. It tells the State Department how to staff its embassies overseas. It even tells the State Department how to submit nominations to the Senate for confirmation. It imposes a whole slew of new report requirements on the executive branch on everything from a proposed alliance on drug trafficking to child abduction in Vietnam and Laos.

It limits our ability to participate in the international criminal court. It

mandates $38 million in various types of assistance for Iraq, but 20 million of that is for humanitarian assistance which Saddam Hussein is supposed to be providing to his own people out of oil-for-food funds. So the effect of this bill is to relieve Saddam Hussein of some of his responsibilities.

Third, this conference report contains a number of provisions designed to undermine the President's authority and undermine his ability to conduct foreign policy. It cuts funding for voluntary contributions to international organizations, including such key ones as the IAEA, a key agency in the fight against proliferation. If threatens the leadership position of the United States in helping parties to negotiate peace agreements in the Middle East and in Ireland. It requires the President to jump through all sorts of written and legal hoops before providing any assistance to the United Nations, even in an emergency, resulting in a holdup of a large number of funds even for peacekeeping. It zeros out funding for the Arms Control and Disarmament Agency.

Mr. Speaker, this report is a political product. We must understand it is not going to become law; it is going to be vetoed. It is not designed to become public law. It is not a carefully crafted document that would assert the role of the Congress in determining foreign policy. I urge a no vote on the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey (Mr. SMITH), distinguished chairman of our Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding, the distinguished chairman of the full committee, and for his work on this very important legislation before us.

I just want to remind Members that during the course of the process of consideration of this bill we had 77 amendments that were offered in subcommittee, full committee, and on the floor from both sides of the aisle, 4 days on the floor for consideration and a number of very important and productive meetings of the conference committee. The issue that it all came down to, frankly and in all candor, was the Mexico City policy. It was the right-to-life issue.

Let me just say a couple of things on that this afternoon. I think it is important to clear up some of this information about the compromise language in the conference report that would impose some restrictions on U.S. assistance to foreign organizations that perform and promote abortions overseas.

During the last 3 years, the House has voted 10 separate times for the pro-life Mexico City policy, which prohibits U.S. population assistance to foreign organizations that perform abortions, violate the abortion laws of foreign countries, or engage in activities that change these laws. We have also voted to restrict aid to the United Nations Population Fund unless the UNPF ended its participation in the forced abortion program.

The People's Republic of China and the Mexico City policy was enforced throughout the Reagan and Bush administrations. It did not reduce family planning money by one dime. Rather, it protected genuine family planning programs by erecting a wall of separation between family planning and abortion. President Clinton repealed that policy. We in the House, thankfully, again and again have gone on record saying that wall of separation needs to be reerected.

Mr. Speaker, I and other pro-life Members were reluctant to agree to the compromise, and I want to say that very candidly and up front. We do give on this. Regrettably, we give but thus far there has been no give by the other side on this issue. We have done so because we believe this compromise is necessary to save some babies lives. We believe it will protect some unborn children by prohibiting a particularly ugly form of cultural imperialism in which U.S. taxpayers support entities that are actively engaged in bullying smaller nations into rejecting the traditions and moral values of their people.

Many of my colleagues have received some talking points sent out by population control organizations. These talking points are misleading and in many cases flatly untrue. First, the population control groups tell us over and over again that they are using what they call their own money to perform and promote abortions. This is a red herring. It is designed to divert attention from the undeniable fact that millions of our foreign aid dollars can and did finance some of the biggest abortion providers in the world.

Similarly, some of the biggest international population control grantees are actively engaged in efforts to overturn pro-life laws in countries around the world. This is because existing laws require only that the organization keep a set of books that shows that it did not use our money to pay for the actual abortions or for proabortion lobbying. This bookkeeping trick ignores the fact that money is fungible. When we subsidize an organization, we unavoidably enrich and empower all activities of that organization.

The Mexico City policy recognizes that money is fungible. Every million U.S. tax dollars that go to an abortion provider frees up another million dollars to pay for abortions and more proabortion lobbying.

□ 1545

The Mexico City policy also recognizes that our family planning grantees are seen as representatives in the countries within which we operate as extensions, as surrogates for U.S. foreign policies. When organizations prominently associated with the United States family planning programs perform and promote abortions, people in these countries logically associate these activities with the United States.

Opponents of the Mexico City policy also claim that if we require our family planning grantees to pledge not to perform or promote abortion, they will not participate in our programs. Yet when the Mexico City policy was in force, hundreds of population grantees agreed not to perform or promote abortions. Only two, let me repeat that, only two organizations decided not to agree to that and therefore were deprived of that money. More than 350 grantees took the money, and that wall of separation between destroying an unborn child and promoting violence against children and family planning was erected.

Some of the talking points that my colleagues have seen in their office claim that the compromise language would punish grantees for merely attending conferences at which somebody else discusses abortion. This too is demonstrably false. The Clinton administration knows it is false and the population control groups know it is false as well. The bill prohibits assistance of foreign organizations that, and I quote, engage in any activity or effort to change the laws of foreign countries with respect to abortion.

Every legislative provision has to be interpreted by the rule of reason. It is unreasonable to claim that activities that change laws includes merely attending a conference. As the conference report makes crystal clear, there is a world of difference between mere attendance and a situation in which an organization finances, sponsors and conducts a conference that is clearly designed to bring about the repeal of laws against abortion, as the International Planned Parenthood Federation recently did in the Francophone countries of West Africa and has done in other countries around the world.

Such sponsorship, financing and organizing should fairly be construed as an activity to change the abortion laws. But nobody on our side of this issue has suggested that such activities include mere attendance at a conference.

Finally, when pro-abortionists run out of arguments, they fall back on slogans that this is somehow a global gag rule because it says to organizations, they have to choose, either be international abortion lobbyists or they can be representatives and surrogates of the United States in family planning programs.

The administration says that the purpose of our family planning program is to prevent abortions. If we want to prevent alcoholism, would we hire the liquor industry to do it for us? If we wanted to stop gambling, would we do it by giving grants to casino owners? If we wanted to spend hundreds of millions of dollars on an international anti-drug campaign, would we give the money to organizations that use their own money to lobby for the legalization of drugs? Of course not. If Congress stands behind the position that there must be a wall of separation between abortion lobbying and U.S. family planning programs, we can save innocent lives. That is what this is all about. Nothing could be more important. I urge a yes vote on the conference report.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. Hastings).

Mr. HASTINGS of Florida. I thank the gentleman for yielding me this time.

Mr. Speaker, it is regrettable that this measure is before us as the President is in Africa with 17 of our colleagues, one of whom is the chairwoman of the Black Caucus that asked that we not proceed in this matter. The historic visit and the important foreign policy statements by the President and our colleagues are undermined by our taking action on this extremely untimely and partisan process. This report was never even shared with Democrats before it was filed and the final product was signed only by Republicans, but not even all the Republicans originally on the conference committee.

Not surprisingly, the report that came out of the process is loaded with bad policy. Let me give my colleagues an example. The President announced last April that he would consolidate two foreign policy agencies into the Department of State. Those agencies are the United States Information Agency and the Arms Control and Disarmament Agency.

The Republicans purport to have done that in this conference report. They claim that they have done in this conference report only what the President announced last April. This is just not the case. The statement of managers for this flawed bill asserts that the State Department will be responsible for designing foreign assistance programs. This assertion is totally inconsistent with the language of the underlying bill. The bill consolidates USIA and ACDA into the State Department, but leaves to USAID the role of designing foreign assistance programs under the overall foreign policy guidance of the Secretary of State. Is this a mistake? Is this our Republican colleagues saying one thing but really meaning something completely different? We do not know, Mr. Speaker, because the regular process was short-circuited and upended.

I urge my colleagues to oppose H.R. 1757. This is a flawed conference report, the product of a flawed process, and it will result in flawed policy.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise today to speak to my colleagues who are fighting to get U.N. reforms and those who are fighting to protect the rights of the unborn. I urge them to vote yes on H.R. 1757, the Foreign Relations Authorization Act.

This bill has a version of the pro-life Mexico City policy supported by pro-life organizations, by pro-life leaders like the gentleman from New Jersey (Mr. SMITH), which will end all U.S. subsidies to organizations that lobby for legalized abortion in developing countries. This bill denies funding for the United Nations Population Fund if they support China's forced abortion or population control programs.

Further, the bill scales back U.N. arrearages from the administration's request and conditions the funding upon U.N. reforms. The bill has a number of U.N. reforms which are very important. In year number one in order to receive the $100 million appropriated in fiscal year 1998, the U.N. must not require the United States to violate the U.S. Constitution or any U.S. law, it must not attempt to exercise sovereignty over the United States or require the U.S. to cede authority, it must not make available to the U.N. on its call the armed forces of any U.N. member nation, must not exercise authority or control over any United States national park, wildlife preserve, monument or private property of a U.S. citizen without that citizen's permission, must not amend its financial regulations to permit external borrowing.

In year two, in order to receive the second arrears payment, the U.N. must reduce the U.S. dues from 25 to 22 percent of the total budget, must reduce U.S. peacekeeping assessments from 31 to 25 percent.

In year three, they must agree to reduce their staff by 1,000 persons, agree to a no growth budget, must agree to hold no more global conferences, among other reforms.

Mr. Speaker, we have a number of reforms in addition. Let us not lose this opportunity to reduce taxpayer forced abortions. Let us not use the chance to save babies overseas. This is a vote that is going to be scored by the National Right to Life Committee. That is important for the pro-life vote. I urge all the Members to vote yes on H.R. 1757 and save the lives of children overseas.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. TORRES).

Mr. TORRES. I thank the gentleman for yielding me this time. Mr. Speaker, I rise in strong opposition to this conference report on the State Department authorization legislation. As we have already heard from the gentleman from Indiana, I object not only to its substance but to the process that was used here and how we came about it today. Democrats were not involved in the fashioning of this conference report and there were no Democratic signatures on this measure.

Mr. Speaker, I do not think this is the best way to conduct foreign policy decisions. There is much in this conference report which I find objectionable. First, once again it contains the Mexico City restrictions on international family planning programs that are clearly unacceptable to the administration as well as to many Members of this body.

Secondly, the conference report does not solve the arrearages problems of the United Nations. It makes it worse. Rather than providing the extra funds, the conference report actually cuts authorized funding for U.S. dues.

Thirdly, I would note that the conference report contains provisions on Cuba which go really the wrong way. Certainly the Pope's visit, the unprecedented worldwide publicity and exposure about life in Cuba, the increase in religious freedom and practices and the recent release of Cuban prisoners are clear signals that the Cuban government is seeking a change in relationship to the United States. The conference report makes it appear that our foreign policy turns a blind eye to the signals for a change in Cuba or that we do not want a change, and we want to continue to punish the Cuban people because we disagree with their government. I urge my colleagues today here to reject this conference report and to make a more responsible approach to dealing with the crucial foreign policy questions of our Nation.

Mr. Speaker, I rise in strong opposition to this conference report on the State Department Authorization legislation. I object not only to its substance but to the process by which it has come to us today. Democrats were not included in the fashioning of this conference report and there are no Democratic signatures on this measure. Mr. Speaker, this is not the way to make important foreign policy decisions.

There is much in this conference report which I find objectionable. First, once again, it contains the Mexico City restrictions on international family planning programs that are clearly unacceptable to the Administration as well as to many member of this body. The conference report prohibits U.S. funding from going to foreign NGO if the organization uses its own money to engage in advocacy. Ultimately, its impact limits the availability of family planning services to poor women and families around the world, and will, tragically, result in an increase in abortions.

Second, the conference report doesn't solve the arrears crisis of the United Nations. It makes it worse. Rather than providing the

extra funds, the conference report actually cuts authorized funding for U.S. assessed dues to the U.N. and other international organizations by over $40 million from the President's request. In essence, it creates even more arrears.

Third, I would note that the conference report contains provisions on Cuba which go the wrong way. Certainly, the Pope's recent visit, the unprecedented worldwide media exposure about life in Cuba, the increase in religious freedoms and practices, and the recent release of Cuban prisoners are clear signals that the Cuban government is seeking a changed relationship with the U.S. This conference agreement makes it appear that our foreign policy turns a blind eye to the signals for change from Cuba, or that we do not want change, and want to continue to punish the Cuban people because we disagree with their government.

I urge my colleagues to reject this conference report and take a more responsible approach to dealing with crucial foreign policy questions.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding me this time. Mr. Speaker, we must reject this conference report and allow families in the developing world to plan their families just as we insist upon planning our own. How many times are we going to have to scrub this bill of abortion to allow impoverished women and families lifesaving funds for family planning?

Do we care about life? We have taken care of the life of the fetus in this bill because there is not one dime for abortion. It is time to move on to care about millions of children in Africa and in South America and in Asia.

Do we care about life? Then care about family planning, the most important and effective tool against abortion.

Do we care about life? Then care about the 20 children and the one pregnant woman who lose their lives per day in the developing countries for lack of family planning.

Do we care about life? Then care about the 25 percent of women who lose their lives in childbirth because they have no family planning.

Do we care about life? Then care about sparing the lives of millions of children who are twice as likely to lose their lives before their first birthday because they are spaced less than 2 years apart because of lack of family planning.

First care about life, millions of these lives, and then care about the freedom to speak and to petition your government. We do nothing in this Chamber but talk and listen to our constituents talk. How can Americans, flag bearers of the First Amendment, condition funds on silencing people on any subject when we censor other nations for doing just that?

You might oppose abortion, my friends, you might oppose family planning, but not one of you would limit the right of any American to advocate abortion or family planning. Who are we to tell Africans and South Americans what they must say? We are Americans. We promote speech. We do not pay people to silence them.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on International Relations.

Mr. BRADY. Mr. Speaker, today I rise in support of the conference report and commend my colleagues on the Committee on International Relations, the gentleman from New York (Mr. GILMAN), and the Senate Foreign Affairs Committee, for their hard work on this bill and appreciate their perseverance in ensuring it is brought to the floor for a vote.

Historically, it seems appropriate we are discussing the world today because it was on this very day in 1979 that Egypt and Israel reached an agreement for peace at Camp David that many thought was impossible, was resisted by those on both sides within those countries, but everyone understood that while the accord was not perfect, it was a giant step in the right direction on a very significant issue. This bill is as well not perfect, but a very good step in the right direction on very important issues to this world. I believe the most important provisions of the conference report will curb finally United States support for overseas abortion programs.

Specifically, it contains compromise language on the Mexico City policy that will deny funding to foreign organizations that perform or promote abortions. In return, our leadership fulfills its promise to provide authorization for arrearage payments to the United Nations, provided long awaited and much needed reforms occur. Such reforms include lowering our share of the United Nations budget from 25 to 22 percent, decreasing our portion of peacekeeping dues from 31 to 25 percent, and other reforms to streamline that huge U.N. bureaucracy.

The final version also ensures that no U.S. funds will go to the United Nations Population Fund unless that agency ceases to assist the People's Republic of China in implementing China's strict birth quota plan. Mr. Speaker, as a pro-life Member of Congress, I am pleased to support these provisions which will genuinely move us forward toward the goal of protecting unborn children.

□ 1600

Mr. Speaker, these very important provisions authorize assistance to the democratic opposition in Iraq building toward the eventual end of the Saddam Hussein regime.

I am also pleased that the bill reaffirms the position taken by Congress in 1995 when it overwhelmingly passed the Jerusalem Embassy Act which requires that official government documents list Jerusalem as the capital of Israel and that the U.S. move its embassy from Tel Aviv to Jerusalem by May 31 of next year.

Finally, this bill also accomplishes our long term objectives of consolidating international affairs agencies within the State Department.

Mr. Speaker, I strongly urge the President to sign this bill into law.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, as my colleagues have noted, there is little to like in this conference report, but the worst of it is the restrictions on international family planning.

Let us be clear. We are not talking here about eliminating funding for abortions overseas. We have already done that. What we are talking about is eliminating U.S. funding for international family planning. Well, if my colleagues want to increase abortions and jeopardize the health of millions of women and children around the world, they should vote for this conference report to limit international family planning.

If my colleagues promised their constituents they would work to deny women across the globe desperately needed reproductive health services and vital pre- and postnatal care, they should vote for this conference report. If my colleagues want to drive women and families in developing countries further into poverty and despair, then they should vote for this conference report. And if my colleagues want to put a global gag on people around the world talking about these issues, then they should vote for this legislation. But if my colleagues care about saving lives and improving the quality of lives, then they should vote no on this conference committee report.

If enacted, this legislation will gut one of the jewels of the U.S. foreign policy. Voluntary family planning services work. They work in this country, they work around the world, and they work to reduce unwanted pregnancies and improve the quality of life for millions of families around the world.

I urge a no vote on this conference committee report.

Mr. HAMILTON. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, each year in the developing world, 600,000 women die from pregnancy-related complications. Maternal mortality is the largest single cause of death among women in their reproductive years. That is why, Mr. Speaker, support for reproductive health services becomes

more important every day. Voluntary family planning services give mothers and their families new choices and new hope. These services increase child survival, they promote safe motherhood. Without support for international family planning, women in developing nations face more unwanted pregnancies, more poverty and more despair.

Mr. Speaker, it is ironic that the same people who would deny women in the developing world the choice of an abortion would also seek to eliminate support for family planning programs, programs that reduce the need for abortion. Without access to safe and affordable family planning services, there will be more abortions, not fewer. The abortions will be less safe and put more women's lives in danger.

Mr. Speaker, I wish that we were here today to support legislation that would pay for a full range of reproductive health services. But at the very, very least, we should keep the doors open for more family planning clinics. And we must do this so that we can provide these individuals and these families with the information and the services they need.

I urge my colleagues to vote against this conference report.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, there is no question that family planning has promoted the health and survival of women and children in undeveloped nations. For over 30 years, the United States has been a leader and a healer with family planning aid throughout the world. We have led an international crusade to promote child survival in the world, decrease maternal and infant deaths, and end the spread of disease. We have saved the lives of young girls by encouraging them to postpone childbearing. Because of our aid, our help, the size of the average family in poor countries has dropped from six to three. This reduction in family size has helped millions escape poverty. It has increased the prospects of an education and a richer, healthier life for women and children. It has given thousands of families a way up and a way out and helped them survive and thrive.

Despite all of our success, despite the distance we have traveled, there are some who do not understand the importance of our work. This legislation effectively cuts funding for family planning. It has a chilling effect on our family planning efforts abroad. This legislation is a step backward, it is a step in the wrong direction.

Let me be clear. Not one penny of U.S. family planning aid has ever been used to fund an abortion abroad. Our laws prevent it. We are not trying to change that. We are simply trying to continue a successful program that saves human lives. It is cruel and barbaric to stand in the way of poor families getting basic information about their health in this country or some distant land.

I urge my colleagues to support healthy families worldwide and vote down this destructive and mean legislation.

Mr. Speaker, I think it is unfortunate this legislation is coming to us today when 16 Members of our body, black Members, are in African countries, and I wish it could have been postponed and come up some time later.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DeLAURO. Mr. Speaker, I rise in strong opposition to this conference report. At this critical time, we should not hold U.N. and IMF funding hostage to the hardliners who oppose family planning funding. Business' economic and financial experts have told us that this IMF funding is needed to contain the Asian financial crisis and to protect American jobs. Our economy is too important to play Russian roulette with. But that is what this conference report does when it adds Mexico City language.

I remind my colleagues, under current law not one dollar of U.S. family planning funds can be used to perform or even counsel women to obtain abortions anywhere in the world. Women and children around the world depend on U.S. family planning funds to improve their health and to give them a real chance at a healthy life. If my colleagues vote for the Mexico City policy, they are voting to abandon these women and children. The President has said he will veto this legislation if this language is included.

Do not waste any more time. Vote against this bill. Remove this language from the conference report. Let us protect American jobs and let us get on with the people's business.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. Lowey).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this conference report. Once again the lives and well-being of women around the world are being held hostage. We are faced with a bill that forces the Mexico City global gag rule upon us. This bill, like so many defeated before it, prohibits organizations from receiving any U.S. funding if they use their own funds to provide abortion services or advocate on the abortion issue. The need for family planning services to prevent unintended pregnancies in developing countries is urgent, and the aid we provide is critical. When women are unable to control the number and timing of births, they have more dangerous and complicated pregnancies, and too many will turn to abortion, often illegal, unsafe and life threatening.

Passage of this conference report will mean more abortions, not fewer. It will mean women dying and children dying. It will mean an increase in unintended pregnancies, and it will mean women taking desperate, dangerous measures to end those pregnancies. And that is the fact, that is the reality.

Mr. Speaker, I am also opposed to the provisions in this bill regarding the United Nations. The funding level provided is too low, and the requirements attached to that funding micromanage the President as he attempts to push the U.N. to reform itself further. Our debt to the U.N. leaves the United States with no leverage to reduce our annual assessments and weakens our leadership in the organizations. This bill will not solve the critical problem.

Mr. Speaker, unfortunately this bill was pushed through to the floor with no bipartisan support and with a veto promise from the White House. I urge my colleagues to defeat H.R. 1757.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), the distinguished subcommittee chairman of our committee.

Mr. SMITH of New Jersey. Mr. Speaker, I just want to advise Members that one provision in this legislation deals with the United Nations Population Fund, and it says very clearly and unambiguously that unless the UNFPA gets out of China, they lose the $25 million that they are slated to get.

I want to remind colleagues that in China, it is illegal to have more than one child. Brothers and sisters are illegal. The Government is aggressively antibaby. Wei Jing Sheng, the great human rights activist who appeared before my subcommittee just a few weeks ago, said he could not believe, he said he was outraged that the U.N. Population Fund and U.N. personnel were working side by side with those family planning cadres, those oppressors of women, who enforce the one-child-per-couple policy in China with forced abortion.

Forced abortion was construed to be a crime against humanity at the Nuremberg War Crimes Tribunal. It is no less a crime against humanity today. Our conference report says that we are serious in dealing with those crimes against humanity and any organization like the U.N. Population Fund will lose its funding unless they get out of China.

Earlier the gentleman from Georgia (Mr. LEWIS) said that for 30 years we have been the leaders in family planning. That was no less true during the Reagan and Bush years when the Mexico City policy was in effect. We provided 40 percent—40 percent of all the population control aid during the Reagan and Bush years. That is a fact, that is not an opinion, with the Mexico City policy in full effect.

It is a red herring when Members on the other side stand up and say that we

are holding hostage family planning. Monies flowed; people were given the opportunity to take that money and give out condoms and do all kinds of family planning, but a wall was erected between performing child abuse, killing unborn children, the promotion of violence against children and preventive means.

One hundred countries around the world protect their unborn children from the violence of abortion on demand. The main engine trying to topple those laws are these so-called family planning organizations. Some see it as their mission to nullify pro-life laws in other lands. Planned Parenthood, in their "Vision 2000" statement adopted in 1992, lays out an action plan to vanquish legal protection for unborn children in other nations.

□ 1615

Here is what it says in part. It declares that family planning organizations around the world, and I quote this, must bring "pressure on governments and campaign for policy and legislative change to remove restrictions against abortion."

We provide the money to these organizations that "campaign" and "pressure" governments to topple their pro-life laws. That is what this is all about. That is why my good friends and colleagues on the other side of the aisle would not sign the conference report. The pro-life safeguards in a compromise version were in there.

I think we have a moral obligation to say, if we are going to pour hundreds of millions into groups that advertise as family planners, let us have a truth in advertising. Let us separate abortion out of it, because abortion takes a life, a life of a child—it is not family planning.

Finally, just let me say, Mr. Speaker, this conference report and the work that went into it was a bipartisan process, 77 amendments in subcommittee, full committee, and on the floor of the House, and many, many conference meetings

We went through a give and take. We had Democratic staff and Republican staff studying and working on the provisions of this conference report.

It is another red herring to say that they were not part of it. Yes, maybe in the end, when it came to signing it, but that is because the pro-life Mexico City policy was in there.

Again I say, if we are going to send out roughly $400 million to abortion providers or family planning providers, and they wear the same hat as abortion providers, those of us who do not want to see any more babies die or any more women exploited or any more forced abortion in China must stand up and say, well, on this bill or any other bill that comes down the pike, we will be offering this language. It is absolutely not going to go away. We have compromised as far as we can go. We have half of Mexico City in here. It is a significant half, but it is only half.

It is about time the President and those on the abortion rights side met us halfway, and then those other issues could go forward unencumbered. Fail to meet us halfway—and we will fight and unceasingly raise this issue on every vehicle imaginable.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise to oppose this conference report, and I do it with some pain, because I have always supported fully the men and women who work for the State Department and who represent us so well around the world.

But no matter how emotionally one speaks or how strongly one feels about both sides of this question, the fact of the matter remains that we do not have to codify the Mexico City language. It is unnecessary, because we know for a fact and we know from statute that U.S. funds cannot be used for abortion.

Second, if the President waives the Mexico City restrictions, there is the effect also that the bill would reduce the amount of money available for family planning. This is unacceptable because we all understand that family planning, and we agree, that family planning saves the lives of both mothers and children in developing countries. We do not think this should be the vehicle for reducing those funds.

But I think the thing that bothers me most, and I think worst, about this conference report is it is such a sharp limit on debate and discussion of the issue before us that is in contention: Choice.

Here we are today on the floor of this House, saying exactly how we feel, saying it as strongly as we might want to. Some of us are feeling very, really emotional about this issue, but understanding that we all can have those strong feelings and express them on this floor and then walk out and everything will be fine because we are in the United States of America. But the limits we put in this conference report would be unconstitutional in this country; and, yet, we ask other countries to abide what we are saying in this conference report.

Mr. Speaker, as the United States seeks to lead the world into a new century of democracy, I find it deeply disappointing that some seek to deny people in other nations the opportunity that we are carrying out and exercising at this very moment on this floor.

So as I say, with pain, I oppose this report. I do wish, as the gentleman before me said, that we could get together and face it and in the correct way.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, my friend from New Jersey says that the antiabortion compromise with this bill leaves us with half a loaf. In reality, it leaves us with a thin slice.

The President can waive the antiabortion provision and use hundreds of millions of dollars to promote and perform abortions. And even the thin slice we are left with will be vetoed by the President.

The fact that this report is scored both ways by family values groups indicates how weak this language is. But let me tell you what this report will do. It will send $100 million on its way that was appropriated last year. It is unfenced by this authorization. It goes to supposed U.N. dues. It also authorizes the rest of nearly a billion dollars and starts it on its way.

But in this report, there is no recognition of a GAO report that says from 1992 to 1995, we spent $6.6 billion on legitimate U.N. peacekeeping activities, $1.8 billion that was credited to us for dues that recognizes the legitimacy of these expenditures.

CRS, more recently, reported that between 1992 and May of last year, we spent $11.1 billion. The Pentagon said that last year alone, we spent $3 billion. Shortly, we are going to vote $1.3 billion, a supplemental emergency supplemental for Iraq.

We spent, since 1992, about $14 billion. We have been credited with $1.8 only. This is a fatal flaw in this bill. We need to send the message that we cannot pass this bill until there is a recognition of all the money that we have spent.

The Senate voted 90 to 10 yesterday, no dues without a tally of the peacekeeping. Please vote no on this, send it back to the conference so they can bring a bill to us that we can pass, recognizing the legitimacy of our U.N. peacekeeping activities, and trade those off against any dues we might owe them.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Indiana (Mr. HAMILTON) for yielding, and would ask this question: Why would we want poor children growing up in nations that are getting only poorer? Why would we oppose family planning money which prevents pregnancies and, in some cases, abortions?

It just does not seem logical to me that many on my side of the aisle would oppose family planning money which actually prevents abortions. Family planning money is not used for abortions or even to promote abortions. It is used to help women have the number of children they want and can afford.

When my colleague, the gentleman from New Jersey, talks about a compromise, I think the compromise was

struck a long time ago. That compromise was the pro-life movement won. Federal dollars could not be spent worldwide for abortions. But under this compromise, it seems logical to me that family planning funds can be used to prevent abortions.

I think in the pro-choice movement, there is an extreme group that opposes the ban on partial birth abortions. The pro-choice movement opposes the ban on partial birth abortions and uses it as a litmus test. If you vote for the ban, you are not pro-choice. But I think there is also an extreme in the pro-life movement that opposes family planning. I just hope that this Congress can get to the point where we can have the extremes fall by the wayside and we can have a sensible policy.

I strongly support family planning money being used for family planning, and I believe that nations throughout the world need the help that we can provide them. As a country like Egypt sees its economy grow, it sees its population outpacing this economic growth, and it becomes a poorer and poorer nation. Why would we want children to continue to grow up in such a poor environment? They are basically the seed for the terrorists that ultimately may destroy this world.

Mr. Speaker, I strongly oppose the conference report, I think it is a mistake, and I am sad that my party has moved forward on this issue.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Indiana (Mr. HAMILTON) has 5½ minutes remaining, and the gentleman from New York (Mr. GILMAN) has 8½ minutes remaining.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank my friend from Indiana, the ranking member of the committee, for yielding to me.

Mr. Speaker, I rise to oppose the bill. Undoubtedly, there are some good things in the bill, and I really wish that I could vote for the bill. But this bill is mixing apples with oranges. The Mexico City language, the whole controversy over abortion, does not belong in this bill. It sullies the bill and takes away from the bill. As far as I am concerned, it is really improperly in the bill.

It is an embarrassment that our country is the biggest deadbeat in the world of the United Nations. For the United Nations to function, we say that we are the leaders of the world, and we are the leaders of the world. We want to have influence on the world. We want to have influence.

We encourage countries to turn to free market economies. We encourage countries to turn to democracy. Then what do we do? We do not pay our U.N. dues. So we owe a billion dollars. Then when we want to try to attempt to pay our dues, we attach it to abortion language and Mexico City language and other language to placate the lobby, the pro-life lobby. But, in reality, it does not make any sense to put it in this bill.

If we want to build an international coalition against Saddam Hussein, if we want to build a coalition to march forward into democracy, then we really should not act irresponsibly. I believe this bill is acting irresponsibly by mixing apples with oranges and putting this abortion language in the bill.

We all know the President is going to veto this bill in its present form. So we know, in essence, this is a game and a charade. I do not know why we have to play again. We played this game last year, it was an embarrassment to the world, and we are playing it again this year.

I think the language pertaining to abortion ought to be struck out, and we ought to pass a bill that can go, pass a bill that will make us proud, pass a bill and act like the leaders of the world which we are. I cannot for the life of me understand why we continue to play these games. I do not doubt the sincerity of anybody on the other side, or of anybody else, but I think we ought not mix apples with oranges. This bill should be defeated.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume, and I do so for the purpose of reading a letter from the White House, addressed:

Dear Representative Hamilton, I am writing to advise you that if H.R. 1757, the Conference Report on State Department Authorization, were presented to the President, he would veto the bill.

Sincerely, Larry Stein, Assistant to the President and Director of Legislative Affairs.

Mr. Speaker, I include the following letter for the RECORD.

THE WHITE HOUSE,
Washington, March 26, 1998.

Hon. LEE H. HAMILTON,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HAMILTON: I am writing to advise you that if HR 1757, the Conference Report on State Department Authorization, were presented to the President, he would veto the bill.

Sincerely,

LARRY STEIN,
Assistant to the President and Director for Legislative Affairs.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield the balance of our time to the distinguished gentleman from Illinois (Mr. HYDE), senior member of our Committee on International Relations.

The SPEAKER pro tempore. The gentleman from Illinois is recognized for 8½ minutes.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Indiana, ranking member of our Committee on International Relations.

This has been an interesting debate, and not too complicated, because there are a couple of ideas that are pretty crystal-clear that separate us. First of all, we have a lot of conservatives who do not like foreign aid. And anything that reeks of the U.N. is tainted and that involves us overseas, and we ought not to get into those sort of entanglements.

So we have a mountain to climb on our side to get enough people to support this. After all, this pays our U.N. arrearages, not perhaps in the manner in which the Democrats would like it paid, but it is $819 million plus $107 million in debt forgiveness over 3 years. That certainly beats where we are now, with zero. So if you think our membership in the U.N. is useful, I would think this is the best opportunity to get caught up on the arrearages.

I have always had a couple of fantasies about the U.N. One is I would like to move it from New York to Beijing. I think that would be a wonderful headquarters. We have had the glory of the U.N. being in New York and avoiding and evading our parking tickets. Let us give the rest of the world a chance at it. But I do not decry the U.N. I think it is useful. I think we should belong to it. I think we are a world leader, and we should lead in the U.N.

□ 1630

And so if we belong to it, we should pay our dues, and this is a medium by which we pay our dues. So I think we should do this.

Now, a couple of other things about the U.N. that bother me. We pay too much in peacekeeping cost, 31 percent. I would like to get that down to 25 percent. And our dues, it seems to me, ought to be reduced from 25 to 20 percent. We can do that with this bill. So that gives me an added incentive for voting for it.

The gentleman from New Jersey (Mr. SMITH), who has been heroic in defending the defenseless unborn, talks about Mexico City, and I was trying to communicate with him that he should explain Mexico City. People think that is a page out of National Geographic.

What it is is a policy that we followed under Presidents Reagan and Bush that said we will give you millions of dollars for family planning, but not to organizations that advocate or perform abortions. In other words, American money should not go to pay for killing unborn children, even if they are Third World unborn children, especially if they are Third World unborn children.

So that is the Mexico City policy, and that sticks in the craw of the left. That is the one thing, that common theme, why, my God, we are going to stop the torrent of abortions with this bill, and therefore, this is a bad bill. Why American taxpayers' money should be used to subsidize abortions overseas I cannot figure out.

Well, we hear that the money of the organizations spent for abortions is their own money. They are not mixing our money in with theirs. I wish my colleagues would stop insulting our intelligence. My colleagues know and I know that if we give them a few million dollars, we free up their own money for their own purposes. It is a bookkeeping transaction. We are subsidizing, effectively, abortions.

Some of us think there is a moral issue here, that this cultural imperialism of ours, telling a country, you have too many people, is across the line. It goes too far.

Now, this bill has so many good things in it that may not come this way again. One of them is the moving of our embassy to Jerusalem and another is requiring the McBride fair employment practices in Northern Ireland; there is full funding for Radio Marti to Cuba, Radio Free Iran, Radio Free Asia to Communist China. This bill authorizes a new assistance package to assist the democratic opponents of Saddam Hussein and Iraq. This bill begins that process of rolling back Saddam Hussein's tyranny in Iraq.

So there are so many reasons why this is a good idea, but most of all, I would like to please make clear family planning is distinct from abortion. Family planning is either getting one pregnant or keeping one from getting pregnant, it is not killing an unborn child once one is pregnant. Family planning, properly understood, does not include abortion, so why should we subsidize organizations that lobby countries to repeal their pro-life laws and that perform abortions?

The gentleman from New Jersey (Mr. SMITH), compromised as far as he could. Go ahead and perform abortions with a presidential waiver, but do not advocate, lobby countries to repeal their pro-life laws. That little speck of respectability you are unwilling to give us. You are not compromising; there is no compromise here, and that is tragic.

There is much that is good in this bill; there is much that strengthens our position in the international forum. It helps us get back in good graces with the U.N., it starts to roll back the arrogance of Saddam Hussein. There are so many good things.

It consolidates agencies that ought to be consolidated like the Arms Control and Disarmament Agency, the United States Information Agency, by putting them in the State Department. And so I just hope that my friends, the conservatives who cannot move their hand to vote for something that has foreign aid in it, would understand that this is important. There are many things in this bill that we ought to take advantage of, and most importantly, that little part of the Mexico City policy that is salvaged in this bill.

My friends over here, I know the President is the premier pro-abortion rights human being in the galaxy, but we have our own independent responsibilities, and we should make a statement that child survival, as I heard the gentleman from Georgia say, is important. One cannot have child survival when one aborts that child. Please support this legislation.

Mr. BARR of Georgia. Mr. Speaker, today the House considered H.R. 1757, the Foreign Affairs Reform and Restructuring Act conference report and passed it by a stealth vote; with no warning, while most of us were working in committees. This bill may contain some good provisions, such as those that deny funding to foreign organizations that perform or promote abortions, but Mr. Speaker, this bill contains far more provisions that are harmful. Most notably, this bill contains language that authorizes $100 million in FY 1998, $475 million in FY 1999, and $244 million in FY 2000 for payments to the United Nations. This is a grand total of $819 million that is to be paid to the United Nations for so-called "arrearages." It was the U.N., I remind you, that went to Iraq and let Saddam Hussein off the hook.

Mr. Speaker, I'm not sure what I object to more, the U.N. funding or the way this bill was passed. For you see Mr. Speaker, although the voters of the 7th District sent me here to represent their views, on this and other important legislation, I wasn't allowed to vote on this important bill. I don't mind losing a vote; I understand the process. But I do mind being denied the opportunity to do what my constituents sent me here to do. It is a shame that this important bill was steathily passed by an unannounced voice vote when it certainly should have come up for an up-front, honest, recorded vote. This is no way to run a railroad, Mr. Speaker, It may be good for the U.N. but it's not good for America.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to voice my strong support for Title XVI of H.R. 1757, "The European Security Act," particularly those sections relating to NATO enlargement. The language contained in this section is designed first and foremost to preserve the effectiveness and flexibility of NATO as a defensive alliance. For nearly five decades, the North Atlantic Alliance has served and advanced the interests of the United States in Europe by preserving peace, promoting economic prosperity, and advancing our shared principles of democracy, individual liberty, and the rule of law. As a long-standing advocate of NATO enlargement, and Co-Chairman of the Helsinki Commission, I have consistently emphasized the importance of Helsinki principles, including human rights, in the expansion process.

Today's consideration of the European Security Act language comes at a critical time, Mr. Speaker, as the United States Senate will soon vote on ratification of the necessary instruments for the admission of Poland, Hungary, and the Czech Republic as full members of NATO. Despite the fact that the NATO leaders committed themselves to a robust 'open door' policy concerning further accession, some seem determined to slam the door shut to other candidates. Instead of spurning those countries aspiring to future NATO membership, we should embrace those states that have demonstrated—in word and in deed—their commitment to the shared values enshrined in the North Atlantic Treaty.

The language designates Romania, Estonia, Latvia, Lithuania, and Bulgaria as eligible to receive assistance under the NATO Participation Act of 1994. Each of these countries has made important strides in political and economic reforms. With respect to the Baltic States, it is worth noting the Charter of Partnership, signed in Washington on January 16, 1998, acknowledges the fact that the United States has a "real, profound and enduring interest in the independence, sovereignty, and territorial integrity, and security of Estonia, Latvia, and Lithuania." In this historic document, the U.S. welcomes the aspirations and supports efforts of the Baltic States to join NATO, reiterating that enlargement of NATO is an ongoing process. Mr. Speaker, European Security Act provisions will advance U.S. interests by supporting the efforts of Estonia, Latvia, and Lithuania to provide for their legitimate defense needs, including the development of appropriate and interoperable military forces.

It would be an injustice of historic proportions, Mr. Speaker, if we did not take advantage of the unique opportunity we have today to embrace those countries of Central and Eastern Europe demonstrably committed to democracy, human rights and the rule of law. Having persevered for 50 years and overcome the odds by regaining their independence, the Baltic countries deserve to be fully integrated into the West, including NATO, without further delay.

Mr. Speaker, I appreciate Chairman GILMAN's willingness to incorporate several of my suggestions into the text of Title XVI. The first concern stems from the fact that Russia has not agreed to the demarcation of its international borders with several neighboring countries, including Estonia and Latvia. In addition, while a Framework Treaty has been concluded between Russia and Ukraine and signed by Presidents Kuchma and Yeltsin, the Russia's State Duma has yet to ratify this key accord which would among other things demarcate the Ukrainian-Russian border, including in the Sea of Azov. Moscow has purposefully dragged its feet on this important issue with the aim of intimidating a number of the countries concerned and erecting a potential obstacle to those aspiring to NATO membership.

The second issue concerns the deployment of Russian forces on the territory of other states. The language I introduced calls for the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states.

Today, there are thousands of Russian troops deployed in and around the Ukrainian port of Sevastopol. Meanwhile, an estimated 3,010 Russian troops continue to be stationed in Moldova along with a considerable supply of military equipment and munitions which could prove particularly destabilizing in the Trans-Dniester region.

Finally, the Title XVI calls for a commitment by the Russians to take steps to reduce nuclear and conventional forces in Kaliningrad, where Moscow has amassed a considerable

arsenal that poses a potential threat to the Baltic States and Poland.

Mr. Speaker, progress in resolving these outstanding security concerns would go a long way to advance peace and stability throughout Europe, a region of critical importance to the security, economic, and political interests of the United States. I am pleased that the language of the European Security Act is included in the bill. We have an obligation to maintain the effectiveness and flexibility of NATO as a defensive alliance open to the inclusion of new members committed to the shared principles of democracy, individual liberty, and the rule of law, and able and willing to assume the responsibilities and obligations of membership.

Mr. CONYERS. Mr. Speaker, I want to register my strong opposition to the conference report for the Foreign Affairs Reform and Restructuring Act.

I urge my colleagues not be fooled by some of the bill's features such as payments to the United Nations because it also contains some incorrigible features. For example, it eliminates the Arms Control and Disarmament Agency, thereby denying our foreign policy makers the benefit of an independent voice on arms control matters. H.R. 1757 also resurrects the so-called "Mexico City" language that restricts funding for abortions overseas—even if they are paid for with private funds. But the offensive provisions in particular that I want to bring to your attention today deal with Haiti.

On September 25, 1997, Congresswoman WATERS and I wrote a letter to the chairman and the ranking member of the International Relations Committee, expressing our concern with provisions reflected in this bill in Section 1228. We were joined by CHARLIE RANGEL, ED TOWNS, JIM CLYBURN, RONALD DELLUMS, BILL JEFFERSON, EARL HILLIARD, JOHN LEWIS, BOBBY RUSH, and JULIAN DIXON. I am enclosing this information for the RECORD. Despite our efforts and those of the gentleman from Indiana, the ranking member, this problematic language stands.

Section 1228 creates vague new authority by which the Secretary of State can prevent certain Haitians from entering the United States. The fact of the matter is that the Secretary of State already has the authority to deny entry to persons who are suspected of human rights violations or terrorism under Title 8 USC Section 1182(a)(3). This bill has a new, ambiguous standard under which the Secretary of State can deny entry to someone who has been "credibly alleged to have ordered, carried out, or materially assisted" in specific killings listed in the conference report.

This new language in H.R. 1757 will be inconsistent with the existing law and create a new untested standard that will be open to manipulation by anyone who simply makes an allegation. Rather than promoting justice for all victims of violence, this will be used to politicize the murders of some Haitians, rather than serving as a tool to advance justice for all Haitians.

Furthermore, by singling out specific violators the bill fails to send a broad message about human rights violators in general. Perhaps worst of all is that the most egregious enemies of human rights, such as Toto Constant, the head of the paramilitary group FRAPH, are already in the United States. Constant slipped into the U.S. (and is comfortably living in New York) not because the Attorney General or the Secretary of State lacks the power to keep him out, but because like other opponents of democracy from Haiti, he is an old CIA asset. We've got to start dealing with these facts if we really want justice for Haiti.

I oppose H.R. 1757 for all these reasons and I thank the gentleman.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 25, 1997.

Hon. BEN GILMAN,
Chairman, House International Relations Committee, Rayburn 2170, Washington, DC.

We are writing in reference to amendment 383 of S. 903, the Senate Foreign Affairs Reform Act, offered by Senator DeWine. This provision would seek to deny entry into the United States to those whom the Secretary of State "has reason to believe is a person who has been credibly alleged to have ordered, carried out, or materially assisted in extrajudicial and political murders" in Haiti.

We strongly support the bill's basic premise that persons involved in political murders be denied entry to the United States. But, we believe this language raises a number of problematic legal issues, may weaken the ability of the U.S. to deal with extrajudicial killers, and may even make it easier to evade prosecution. We also wish to note that the substance of these provisions appear to be covered by existing law. As a result, we urge you to strike this contentious language and avoid the confusion and litigation guaranteed to result if it becomes law.

U.S. Code currently grants the Secretary of State the legal authority to deny a visa from individuals that the Secretary believes have engaged in extrajudicial killings. The Secretary of State can deny a visa application based either on anti-terrorist or foreign policy grounds.[1] A decision to deny a visa based on these grounds is not reviewable by any court.

In fact, the Secretary of State in the consular offices in the field already maintains a list of people who fall into one of these two exclusionary categories. This list, commonly known as the "lookout book" is kept by every American consulate. If your name is in the lookout book, the consular officer will deny your visa application.

The DeWine Amendment lists specific individuals, specific dates, and specific factual allegations. Although this may seem to focus the legislation and get tough on the alleged killers, in fact this language limits the ability of a prosecutor to bring these killers to justice. Any skilled attorney would recognize how any one of these named individuals could escape justice if the fact or dates cited turned out to be incorrect. By writing the legislation so narrowly Mr. DeWine and his cosponsors risk giving human rights abusers a legal escape hatch.

Beyond the legal problems with this proposed legislation, we also believe the DeWine amendment fails on moral grounds. In limiting the focus to Haiti this legislation fails to convey a universal condemnation against extrajudicial and political murders. We believe it is imperative to communicate our country's worldwide aversion to political assassinations. It is a matter of principled policy making to deny entry to all persons involved in political assassinations, whether they be from Bosnia, Russia, Guatemala, Haiti or anywhere else in the world.

We hope you agree with our analysis of this bill. We urge you to strike this amendment from the proposed legislation. We look forward to working with you on this important issue.

Sincerely,

John Conyers; C.B. Rangel; James E. Clyburn; William J. Jefferson; Julian C. Dixon; Bobby Rush; Maxine Waters; Edolphus Towns; Ronald V. Dellums; Earl F. Hilliard; John Lewis.

[1] Sec. 212(a)(3) [8 U.S.C. Sect. 1182(a)(3)] re: terrorism and Sec. 212(a)(3)(C) re: foreign policy.

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Washington, DC, September 25, 1997.

Hon. LEE HAMILTON,
Ranking Member, House International Relations Committee, Washington, DC

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John Conyers; C.B. Rangel; James E. Clyburn; William J. Jefferson; Julian C. Dixon; Bobby Rush; Maxine Waters; Edolphus Towns; Ronald V. Dellums; Earl F. Hilliard; John Lewis.

Mr. PAUL. Mr. Speaker, last year's attempts by some in Congress to tie the Mexico City Policy to the issues of funding for the United Nations (UN) and the International Monetary Fund (IMF) this week come back to haunt those of us who believe in the sanctity of human life, the inviolability of US Sovereignty, and the rights of the U.S. taxpayers to keep the fruits of their own labor. This week, we see, the "grand deal" struck which will see liberals back down from their opposition to Mexico City Language in exchange for conservative members voting to support funding of the United Nations, affirmative action, peacekeeping activities, and the National Endowment for Democracy.

MEXICO CITY POLICY DETAILED

The Mexico City Policy was drafted in the Reagan years as an attempt to put some limitations on US foreign aide being used for certain abortions overseas. While I believe that those who put this policy forward were well-motivated, I believe that time has shown this policy to have little real effect. I have continued to vote for this policy when it came up as a stand alone issue in this Congress because, by itself, its effect tends to be positive rather than negative, as I say, I consider it largely ineffective.

I believe that the only real answer to the concerns of sovereignty, property rights, constitutionality and pro-life philosophy is for the United States to totally de-fund any foreign aid for international "family planning" purposes. I introduced a resolution to that effect in 1997 and we received 154 votes in support of cutting off this unconstitutional funding program.

In fact, the deficiencies of the Mexico City Policy are such that the pro-family conservative group Concerned Women for America has withdrawn its support for the Mexico City Policy all together. This, in part, due to the fact that while the policy requires more creative accounting, it does not, by any stretch of the imagination, prohibit funding of many abortions.

UNITED NATIONS

The United Nations is an organization which frequently acts in a manner contrary to the sovereign interests of the United States. As such, I have sponsored legislation to get the United States out of this organization.

Currently, the most pressing battle is to stop the US from paying phony "back dues" which we supposedly "owe" this organization. Congressman ROSCOE BARTLETT put forward a bill to stop any payment of this phony UN debt and I proudly cosponsored Mr. BARTLETT's legislation.

LINKING THESE TWO ISSUES

We were able to put the breaks to the funding of the false UN debt and the IMF at the end of the last session of Congress by linking these items with the Mexico City Policy language. For political reasons President Clinton has steadfastly refused to sign any legislation which contains any anti-abortion language at all.

This linkage presented us with a short term tactical victory but its long term costs are now becoming quite apparent. In linking these two issues together an opportunity for a "deal" has become apparent, a deal which will compromise principles on several fronts.

THE SO-CALLED "BARGAIN"

The so-called bargain here is maintaining the flawed Mexico City language in exchange for paying the alleged back-dues to the United Nations. But this, from a true conservative standpoint, is a double negative. In a world of so-called give-and-take, this is a double-take. This is no bargain at all. Obviously, the Mexico City policy is riddled with fungibility holes in the first place. Moreover, it is morally repugnant to undermine our nation's integrity by trading votes in this fashion. Worse still, it is now apparent how willing "some" members have become to water the Mexico City Policy down still further in order to get President Clinton to sign legislation which shouldn't exist in the first place. Even the abortion restrictive language has been diluted to state that "the President could waive the restriction on funding groups that perform or promote abortion, but such a waiver would automatically reduce total U.S. funding for family planning activities to $356 million, 11% less then current appropriations. In other words, Abortion is A-O-K if done with 11% fewer taxpayer dollars. Now that's not worth compromising principle.

"PEACEKEEPING"

This compromise authorizes $430 million for U.S. contributions to our "police the world" program carried out through various arms of the United Nations. International peacekeeping operations are currently ongoing in the Middle East, Angola, Cambodia, Western Sahara, and the former Yugoslavia. Additionally, the measure authorizes $146 million to international operation in the Sinai and Cypress.

ADDTIONALLY

This "agreement" authorizes $1.8 Billion for multilateral assistance in excess of the previously mentioned contribution to the United Nations; $60 million dollars for the National Endowment for Democracy; $20 million for the Asia Foundation; $22 million for the East-West Center for the study of Asian and Pacific Affairs; $1.3 billion for international migration and refugee assistance and an additional $160 million to transport refugees from the republics of the former Soviet Union to Israel. Also, $100 million is authorized to fund radio broadcasts to Cuba, Asia and a study on the feasibility of doing so in Iran.

Lastly, foreign policy provisions in this report suggest an ever-increasing role for the United States in our current police-the-world mentality. Strong language to encourage all emerging democracies in Central and Eastern Europe to join NATO area amongst these provisions in the conference report. It also authorizes $20 million for the International Fund for Ireland to support reconciliation, job creation, investment therein. For Iraq, the bill authorizes $10 million to train political opposition forces and $20 million for relief efforts in areas of Iraq not under the control of Hussein.

Apparently contrary to the first amendment, the conference report contains language that the U.S. should recognize the Ecumenical Patriarchate in Istanbul, Turkey, as the spiritual center of the world's 300 million Orthodox Christians and calls upon the Turkish government to reopen the Halki Patriarchal School of Theology formerly closed in 1971. "Congress shall make no law respecting an establishment of religion * * * (Except abroad?)

CONCLUSION

Fortunately, many genuinely conservative pro-life and pro-sovereignty groups are making it known that they do not support this so-called "compromise." I, for one, refuse to participate in any such illusion and oppose any effort to pay even one penny of U.S. taxpayer dollars to the United Nations, subsidize family planning around the world, and intervene at U.S. taxpayer expense in every corner of the globe.

Ms. DANNER. Mr. Speaker, I regret the fact that H.R. 1757, The State Department Authorization Conference Report, was passed today on the floor of the House of Representatives by a voice vote, thereby authorizing payments to the United Nations by the United States of $819 million over fiscal years 1998 through 2000.

This legislation also includes language that would forgive up to $107 million in U.N. payments to the United States for U.S. military contributions in peacekeeping efforts. I do not believe that this widely-disputed amount takes into account all of the costs and expense incurred by the taxpayers of the United States in various peacekeeping missions.

I am very disappointed that I did not have an opportunity to cast a recorded vote on this measure. Had I been given the opportunity to cast a vote on this legislation in a rollcall vote, I would have voted against H.R. 1757.

Mr. BUNNING. Mr. Speaker, like many of my colleagues I am not completely happy with the final version of this bill. However, I have been around here long enough to know that some times you have to take what you can get.

While I am no fan of the United Nations, and I have serious reservations about paying any of the so-called debt to the U.N., we have an opportunity to make some very substantive changes to our nation's foreign policy regarding abortions. We need to seize this opportunity.

By ensuring that the Mexico City Policy is written into law we will send an important message of how much we cared and understood the needs of the unborn. For far too long, we have allowed the President to provide foreign aid to organizations that promote the use of abortion, even in countries that have laws on the books prohibiting the procedure. This is wrong, and by passing H.R. 1757, we can hopefully put a stop to it.

I understand that voting "Yes" on this bill is a tough pill to swallow. But, if we don't take action today, millions of abortions will occur around the world with the assistance of U.S. taxpayer dollars. This is unconscionable and it is time Congress stopped it. Vote "yes" on H.R. 1757.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to the Conference Report on H.R. 1757, the Foreign Affairs Reform and Restructuring Act. All I can think of

as I stand before you this afternoon is "here we go again." It is disheartening to see certain Members of this body once again hold funding to meet our nation's commitment and investment in foreign affairs hostage to provisions placing stringent and unacceptable restrictions on funding for international family planning. And once again, those Members are inaccurately attempting to characterize this as a vote about abortion.

Proponents of the Conference Report on H.R. 1757, the Foreign Affairs Reform and Restructuring Act wrongly claim that release of family planning funds without restrictions will allow U.S. aid to support abortion services abroad. These funds, however, can not by law be used to provide or promote abortions. Proponents of this legislation argue that funding is fungible, but the Agency for International Development has a rigorous process to ensure that the current ban on the use of U.S. funds for abortions is adhered to and that no U.S. funds are spent on abortion services.

Funds to support family planning are not funds for abortions. Family planning funds are used to provide contraceptives to persons who would otherwise not have access to them. Family planning funds support education and outreach on family planning options, family counseling, health care, and technical training for personnel. These funds help to improve the health and increase the survival rate of women and children during pregnancy, in childbirth, and in the years after. Family planning allows parents to control the number of children that they have and the timing of those births. And in so doing it allows women the opportunity to reach beyond the walls of their homes, to get an education and to work outside of the family.

A recent report of the Rockefeller Foundation argued that devoting less time to bearing children, reducing family size, and improving the health and survival of women and children results in better economic prospects in developing countries. Withholding these funds will reduce access to contraception and in so doing increase unintended and unwanted pregnancies. Experience demonstrates that as unintended pregnancies increase, so does the abortion rate.

In fact, U.S. funding to Hungary has coincided with a 60% reduction in abortions in that country. In Russia, increased use of contraceptives has led to a 30% reduction in abortions.

My colleagues, this is not a vote on abortion. A vote against this Conference Report is a vote to provide more options and opportunities for the people of developing nations around the world. Once again we are here debating language that will codify a global gag rule—language that is clearly unacceptable to pro-family planning Members of this Congress and to the Administration and that the Administration has indicated that it will veto. For these reasons, I call upon each Member to signal their support for the health and welfare of women, children and families and vote against the Conference Report on H.R. 1757, the Foreign Affairs Reform and Restructuring Act.

Mr. DAVIS of Illinois, Mr. Speaker, I rise today to oppose the Foreign Affairs Reform Act. In this time of competitive interests and thoughts, the United States presence is more important to world peace and progress then ever before. As our world becomes more interdependent than ever before the United States must improve its relations. Most Americans know this. We must not ignore the benefits of cooperation nor must we ignore our own interdependence and responsibility as a leading nation to share the blessings of the entire world.

Mr. Speaker, I wholeheartedly reject the dangerous Mexico City Policy. It is my determination that any delay will cause serious, irreversible and avoidable harm. We must remember that in the balance are the lives and well-being of many thousands of women and children and American credibility as the leader in family planning programs around the world.

For half a decade anti-family planning lawmakers have attempted relentlessly to impose the Mexico City Policy on organizations that receive U.S. international family planning money, and make this debate a referendum on abortion. International family planning is not about abortion. No U.S. dollars are used to provide abortion services and in fact, access to international family planning services is one of the most effective means of reducing abortion.

I oppose the provision which allows the U.S. to renounce its full debt to the United Nations. The United States is $321 million behind in its payment. There is a great international game is being played out here today. Why must we continue to barter for the health and well being of millions of people around the world? I think it is the wrong time to do this and we will reap disastrous results.

We must remember and act as though this is an interdependent world. It cannot be overstated that building the Global Village and a better world for the 21st century requires a United Nations that is supported, fully funded, and respected. Achieving this momentous task must begin in the country where the U.N. was born.

Lastly, I have grave concerns with the Haitian language of the bill. I believe this is a step to decrease U.S. presence in a country which so desperately needs intervention. The secretary of state already has the authority to deny entry to persons who are suspected of human rights violations. This language is inconsistent with the existing law, which is working well, and I am worried this new untested standard will be open to manipulation by anyone who makes an allegation.

I urge members to vote against this bill and vote for preserving world peace, better conditions for the worlds families, caring for refugees and sharing the blessings of progress around the world.

Mr. POSHARD. Mr. Speaker, I rise today to register my strong opposition to H.R. 3246, the misnamed "Fairness for Small Business and Employees Act." This legislation is an outright attack on the rights of working men and women in this country and would erode many of the fundamental freedoms guaranteed by the National Labor Relations Act. I certainly hope that my colleagues will recognize this mean-spirited attempt to discriminate against organized labor and vote against the bill.

The right of workers to organized is a precious freedom, which I have fought for many years to strengthen and protect. Employers currently have at their disposal an arsenal of weapons with which to fight unionization, and tens of thousands of American workers lose their jobs illegally each year simply as a result of their support for union organizing campaigns. I fail to understand how my colleagues on the other side of the aisle can, with a straight face, claim that this bill is a necessary tool for employers. This bill is anything but necessary. Rather, it adds more injustice to an already uneven balance of power between workers and employers and effectively allows working men and women to be denied employment for exercising their federally-protected rights to organize to protect their interests.

Mr. Speaker, I serve as a member of the Small Business Committee, and I am proud of my strong efforts on behalf of the small business owners of this country. I recognize their contributions and am committed to working on behalf of their interests. But H.R. 3246 is not about fairness for small businesses, and it most certainly is not about fairness for their employees. Instead, it is nothing more than another attack on the hard-fought and fundamental rights of America's working men and women and a vicious attempt to further erode the already precarious ability of workers to organize. I will oppose this bill, and I urge my colleagues to do the same.

Mr. PORTER. Mr. Speaker, I am a strong supporter of our foreign policy initiatives, including payment of our arrears to the United Nations but I cannot support passage of this bill. I have actively supported the creation of Radio Broadcasting for Iran and Iraq and strongly approve of the new money for Radio Free Asia. My concerns lie with the reforms proposed in this bill for the UN and the restrictions placed on the funds of international organizations that provide family planning assistance.

The creation of the UN was prompted by United States leadership after World War II. The UN provides a multilateral forum for peace to be negotiated so that international tensions will never again escalate to another world war. H.R. 1757 does help to pay off the arrears that we have accumulated so that we can hopefully regain our leadership position in this organization. However, this bill also conditions this money on unilateral reforms that run in direct opposition to the spirit under which the UN was created. This lack of U.S. support for and leadership in the UN is an embarrassment which has also greatly encumbered the performance of our foreign policy.

In addition to the conditions on funding for the UN, this legislation also attaches extremely controversial and damaging restrictions on private organizations that provide family planning assistance. There has always been a prohibition on these organizations using U.S. funds to perform abortions, However, many feel that this is not a great enough safeguard and have chosen to also place an effective gag rule on what these organizations can do with their own funds. This restriction is in violation of our own Constitution yet many approve of requiring it abroad. To me, this is the greatest form of hypocrisy to which I am strongly opposed.

While I believe that nothing is more important to our foreign policy at this moment than

paying our UN dues and regaining our credibility and leadership abroad, I cannot support this legislation because I believe it may do more harm than good for the long term. Placing unilateral conditions on UN funding and enacting unconstitutional requirements for family planning organizations into permanent law will only prolong the problems that have impeded our foreign policy. As we continue to experience international crises, whether they are military, economic or social, the UN and our foreign policy only become more important. We need to fully support the UN now and free our foreign assistance programs from restrictions that do nothing more than waste money and damage the effectiveness of our international development assistance programs.

Mr. CALVERT. Mr. Speaker, I rise today in support of the conference report to H.R. 1757, the Foreign Affairs Reform and Restructuring Act. This conference report accomplishes three important international goals by authorizing assistance to the democratic opposition in Iraq; reforming and consolidating the State Department; and most importantly, denying funding to foreign organizations that perform or promote abortions.

There is no justification for using our federal money to perform or promote abortions overseas, or here at home for that matter. This bill also takes an important step in consolidating two out of three international affairs agencies back into the State Department. And, it is important for the U.S. to support the democratic opposition in Iraq. The problems in the Middle East have continued for too long. It is time to put an end to Saddam Hussein's reign of terror.

I do not like the provision authorizing U.S. arrearages to the United Nations. I am no fan of the United Nations, and do not trust that institution to respect American sovereignty. It is our job as constitutionally elected representatives of the American people to protect our sovereignty. I am disappointed that this provision was included in such important legislation.

Again, I strongly support three out of the four key provisions of this bill, particularly regarding no U.S. funds being used to perform or promote foreign abortions. American foreign policy should not include promoting abortions, and no federal funding should be authorized abroad or domestically to pay for abortions. I urge President Clinton to do the right thing and sign this important legislation.

Mr. SKAGGS. Mr. Speaker, the conference report before us today is badly needed, but it is seriously flawed in its present form, and so, I'm sad to say, it should be defeated. The bill authorizes funds for the State Department and related agencies, and for money this country owes the United Nations. But the addition of the international gag rule on foreign nongovernmental organizations (NGOs) relating to international family planning funds is unacceptable. It attempts to do overseas something that would be unconstitutional if done here at home.

The "lobby" ban means that the United States would be using the threat of withholding U.S. money to blackmail foreign NGOs to promise not to use their own money not to lobby their own governments. The definition of "lobbying" is so broad that it includes making public statements that may call attention to "alleged defects" in abortion laws.

One of this country's most cherished foreign policy goals is to bring democracy and the values of civil society to other countries. This provision would stifle the kind of debate on a critical issue that we are free to conduct in this country.

As Secretary of State Madeleine Albright said: "This is basically a gag rule that would punish organizations for engaging in the democratic process in foreign countries and for engaging in legal activities that would be protected by the First Amendment if carried out in the United States."

The practical effects of the lobby ban would be ridiculous. For example, the "lobby" ban would mean that a foreign NGO could lose its U.S. family planning support if, with non-U.S. funds it writes a paper or makes a public statement that cites the incidence of maternal death due to illegal abortion, thus showing a "defect" in abortion laws. Or, in a country where abortion is legal, an NGO could lose U.S. support if it offered its own government advice on how to make abortion safer.

The gag rule approach contradicts deeply-held American values of free speech and participation in the political process. In the 104th Congress, we rejected a similar attempt to use the leverage of federal funds to prevent domestic NGOs from engaging in advocacy with their own money. We should not impose on foreign NGOs an anti-democratic gag rule that would be unconstitutional to impose on domestic organizations.

It is most unfortunate that this issue has delayed payment of U.S. arrearages to the United Nations. This country uses the United Nations to seek international support for many important foreign policy goals, most recently to enforce compliance by Iraq with its commitment to destroy its weapons of mass destruction. We risk influence in the international community on critical foreign policy goals by being seen as international deadbeats when it comes to paying our bills.

The same controversy over family planning funds last fall kept us from paying our arrearages to the UN. As a result, we lost negotiating leverage at the United Nations to lower the percentage assessment that determines our annual UN dues. That mistake is likely to cost us hundreds of millions of dollars in lower dues payments. Assessments were renegotiated last fall, and we have had to ask to reopen those negotiations. And now it is very unlikely that we can succeed in lowering our assessment from 25 to 20 percent, as called for in this conference report.

By the year 2000, Japan's assessment will be 20 percent. Surely the United States, which has a larger economy than Japan's will be expected to pay more than Japan. Other Asian countries, which had expected to take on larger assessments, are no longer able to because of the Asian financial crisis. At best, we're likely to get our assessment lowered to 22 percent, still saving taxpayers millions of dollars every year, but only if we pay our arrearages.

The simply truth is that we will continue to suffer a loss of influence and credibility in the United Nations if we continue to fail to pay these arrearages. I see no reason why this critical international responsibility should be held hostage to an extension of our domestic abortion debate. I urge my colleagues to defeat the conference report.

Mr. NADLER. Mr. Speaker, the State Department Authorization bill would place an international gag rule on organizations that use their own non-U.S. funds to provide abortion services. It also threatens to cut off $29 million from our international family planning efforts if the President attempts to defer the ban on funding to organizations that use their own private funds for abortion services. This policy is clearly unacceptable, and is not supported by the President or by the American people.

Why? Because the American people understand that family planning is necessary, successful, and addresses a critical need. According to the World Health Organization, nearly 600,000 women die each year of causes related to pregnancy and childbirth. International family planning efforts have been remarkably successful and have saved women's lives. I am shocked that proponents of these so-called "Mexico City" restrictions claim that our family planning programs actually increase the number of abortions, when, in fact, the exact opposite is true. Studies show that our efforts, as part of an international strategy, have prevented more than 500 million unintended pregnancies.

International family planning improves women's health, helps reduce poverty, and protects our global environment. Our family planning programs save lives, and they should be continued without unnecessary restrictions.

There is no need to impose this type of gag rule on organizations that use their own money to further their objectives and to make women's lives safer. The "Mexico City" restrictions are pernicious, unnecessary, and harmful. If this bill were to be enacted, it would severely limit family planning efforts and simply result in more unwanted pregnancies, more fatalities among women, and more abortions. I strongly oppose these provisions of the State Department Authorization bill.

Mr. CALLAHAN. Mr. Speaker, I rise to address several aspects of this legislation which authorize appropriations for activities under the jurisdiction of the Subcommittee on Foreign Operations, which I chair.

First, I would like to congratulate the gentleman from New York for his hard work on this conference report. He has produced a product that deserves our full support.

Sections 1104 and 1231 of the conference report authorize funds for International Organizations and Programs and for Migration and Refugee Affairs. There are several subauthorizations within these sections. However, the level appropriated for the accounts in 1989 is such that these subauthorizations will not result in the earmarking of funds for the purposes specified. For fiscal year 1999, I do not feel bound by the limitations imposed by the authorizations for specific activities within these accounts. The programs mentioned may all be meritorious, but they must receive funding on the basis of a balance among all the programs within the appropriations accounts.

Section 1815 of the conference report would earmark not less than $2,000,000 in fiscal

years 1998 and 1999 for activities in Cuba. Despite the fact that the State Department has indicated that it will be obligating at least this level of funds in fiscal year 1998, this earmark does not conform with the proper roles of each committee in the allocation of appropriated funds. It is the role of the International Relations Committee to establish policy and to place a ceiling on the amount of funds that should be made available for appropriations accounts and activities. However, the allocation of funds within those authorization levels is reserved for the Appropriations Committee.

I must respectfully inform the House, and the authorization committee, that I will not be bound by such earmarks or limitations when I make my recommendations for fiscal year 1999 for the Foreign Operations appropriations act.

Once again, I congratulate the gentleman from New York for his work on this legislation. Aside from these minor matters, it is a conference report that deserves our full support.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) for his remarks, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPRESSION FOR APPRECIATION FOR HARD WORK OF MEMBERS ON CONFERENCE REPORT

Mr. DELAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DELAY. Mr. Speaker, I appreciate this vote, and I appreciate the work of the chairman of the Committee on International Relations, and I appreciate all the hard work that has been put into this bill. Our Members are very appreciative of all of the cooperation of all of the Members on the floor.

We think this is an excellent bill, and we want to give credit where credit is due to the Members of the House, and particularly the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary. The chairman of the Committee on International Relations has done a great service for this House, and the gentleman is to be commended for a bill that is consolidating the State Department and bringing some very needed reforms.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank our distinguished whip for his kind remarks, and I just want to remind our Members that there are a number, as the gentleman from Illinois (Mr. HYDE) indicated, of significant provisions in the measure we have just adopted.

We consolidated foreign affairs agencies into the State Department, something that we have been advocating for a number of years, something the Senate has been advocating. We provided $38 million in assistance to the democratic opposition in Iraq, in attempting to move Iraq away from the violations that have occurred with regard to the biological and chemical weapons. We strictly conditioned U.N. arrearage payments on a number of internal reforms that we are seeking. We initiated long-term reforms of the United Nations; that is the Helms-Burton package. We are saving taxpayers money by reducing the United States assessment at the United Nations. And most importantly, we initiated the McBride fair employment principles for the troubles in Northern Ireland.

Mr. Speaker, we have accomplished a great deal by this measure.

Mr. DELAY. Mr. Speaker, reclaiming my time, I thank the gentleman for his remarks, and I think this is a wonderful day for the House of Representatives in reflecting this vote.

PROVIDING FOR CONSIDERATION OF H.R. 3246, FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from south Boston (Mr. MOAKLEY), my very good friend, who I am happy to say has just arrived in the Chamber, and pending that, I yield myself such time as I may consume. Mr. Speaker, all time yielded will be for debate purposes only.

□ 1645

Mr. Speaker, this rule makes in order H.R. 3246, the Fairness for Small Business and Employees Act of 1998, under a structured rule providing for an hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce.

The rule makes in order one amendment by the chairman of the Committee on Education and the Workforce, offered by the gentleman from Pennsylvania (Mr. GOODLING). The rule provides that the amendment shall be considered as read and debatable for 20 minutes, equally divided and controlled by the gentleman from Pennsylvania (Mr. GOODLING) and an opponent.

The amendment shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Further, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, although this is a structured rule, it would also be correct to characterize it as a very fair rule. As Members know, H.R. 3246 amends a broad cross-section of the National Labor Relations Act. The Committee on Rules required Members to prefile their amendments in advance, in an effort to ensure that the House would have a focused debate on the issues specific to this legislation.

Four amendments were filed with the Committee on Rules, and of those, three were actually withdrawn. In fact, two amendments filed by the ranking minority member of the Committee on Education and the Workforce, the gentleman from Missouri (Mr. CLAY), were withdrawn as a result of a motion offered by the gentleman from Massachusetts (Mr. MOAKLEY), which the Committee on Rules adopted by a voice vote. Those two amendments would have added 20 minutes and 60 minutes, respectively, to the debate.

Mr. Speaker, I want to applaud the gentleman from Pennsylvania (Chairman GOODLING) and the gentleman from Illinois (Mr. FAWELL), the chairman of the Subcommittee on Employer-Employee Relations, for their very thoughtful work on this bill in moving it forward.

If enacted, the bill will end abusive practices against workers by organized labor and the Federal bureaucracy. It will level the playing field for small businesses, small unions, and employees by creating an impartial National Labor Relations Board.

It will also end the practice of what is known as salting, whereby professional agents and union employees are sent in to nonunion workplaces under the guise of seeking employment, only to inflict harm on those employers.

So, Mr. Speaker, let me say, this is, I believe, a very fair and balanced structured rule. I urge my colleagues to support this measure, which makes in order this fair and commonsense bill which will provide relief for small businesses, for labor organizations, and employees.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my Republican colleagues have not named this bill very well. They call it the Fairness for Small Business and Employees Act, but it is neither fair, nor is it for small businesses.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose the bill. This is bad news for American workers, particularly construction workers, and it seriously undercuts the National Labor Relations Board. This bill hurts workers' rights to bargain collectively by allowing businesses to refuse to hire or even fire people who have been members of unions or who have worked in union shops.

Let me repeat this, Mr. Speaker. This bill allows employers to refuse to hire people they suspect might be affiliated with a union. In other words, Mr. Speaker, it allows businesses to fire workers who might report unlawful conduct, but it allows businesses to keep hiring outside union busting consultants. That is all right.

Keep in mind, Mr. Speaker, that these so-called union organizers do a good day's work. They show up on time. They work hard. They follow the rules. They are not standing around the water coolers passing out leaflets all day. They do their jobs satisfactorily. If they do their job satisfactorily, Mr. Speaker, they should not be fired for union activities or affiliations. After all, Mr. Speaker, these people come to organize employees, not to eliminate their jobs, as my Republican colleagues will imply.

But, because some employers fear the power of collective bargaining, they want to be able to refuse to hire someone or even fire someone for suspicious siding with the unions. This bill allows them to do that, Mr. Speaker, and that is patently wrong.

It also gives employers a powerful tool to slow down workers' choice of unions. This bill makes taxpayers pay the legal fees under the National Labor Relations Act whenever the business wins. Mr. Speaker, making taxpayers pay, even in cases where the National Labor Relations Board's position was substantially justified, is in violation of the "American rule" under which each party to a suit pays their own costs.

There is no reason to think that the NLRB is bringing up frivolous cases. In fact, Mr. Speaker, last year the NLRB won 83.7 percent of the cases which went to the courts on appeals, so they are not just taking any old case lying around. When they do take a case, they prosecute it very well.

Perhaps, Mr. Speaker, that is the problem. Back in 1935, the National Labor Relations Act was enacted to encourage the practice and procedure of collective bargaining. But because "unions are essential to give laborers opportunity to deal on an equality with their employer," in other words, collective representation, it promotes American economic and social good.

Mr. Speaker, some of my colleagues talk about unions as if they were a dirty word. They imply that union organizers are only out to destroy businesses, and, Mr. Speaker, that absolutely is not true. Organized labor has just as much of an interest in keeping people's jobs as employees who have an interest in keeping businesses running.

Collective bargaining is not a tool to destroy companies, and neither are unions. Unions give workers a voice at a time when the gap between rich and poor is ever widening, so we need all the unionizing we can get.

Unions raise living standards, they help close the wage gaps between women and people of color, they fight discrimination, and promote civil and human rights. But as it stands today, Mr. Speaker, about 10,000 working Americans get fired every year just because they support unions. This bill is just one more attack on the working people's rights.

Mr. Speaker, this bill is a giant step backwards in worker-employer relations. It gives employers even more ways to trample the rights of workers to organize and bargain collectively, and, along with this rule, should be defeated.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all we are trying to do is make sure that small businesses have the exact same rights that the gentleman and I do in hiring practices in our offices.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I concur, Mr. Speaker. That is all I am here for, is to make sure that unions and collective bargaining agents and employers have all the same rights.

Mr. DREIER. Mr. Speaker, we are trying to protect the rights of employees, the small labor groups, organizations, and, of course, the backbone, the backbone of the United States of America, the small businessman and woman.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let us call this bill for what it is. It is shameful union-bashing. That is what it is. At least our Republican colleagues are consistent about being anti-worker, anti-union, anti-middle class persons. This amends the National Labor Relations Act to permit employers to refuse to hire a person who seeks employment in a nonunion firm to organize the workers into a union.

This is an anti-union bill. It is a bill to restrict workers from organizing, make no mistake about it. It makes it much more difficult to organize workers for better pay benefits, punishes workers for their affiliations with organizations outside of the workplace, and infringes on their right to free speech.

The President is going to veto this bill in its present form. The bill absolutely should be defeated. It is an absolute disgrace. It overturns the unanimous 1995 Supreme Court decision that said "Employees or job applicants attempting to organize a workplace have the same employment protections as any other employee or applicant."

This, again, is shameful union bashing. This body should reject it, and I urge its defeat.

Mr. MOAKLEY. Mr. Speaker, I yield 2¾ minutes to the gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the American tradition has been to organize all kinds of groups everywhere in this country. The National Labor Relations Act was intended to encourage people to organize on the job. This is a bill to discourage people from organizing.

What it says is that an employer can discriminate if the primary purpose of a person was furthering other employment or agency status. 50 percent of their intent is not to work for the employer. In that case, there is no protection.

Who is going to interpret this, and under what circumstances? If someone is fired, it is up to the NLRB to present a prima facie case showing that the employee applicant on whose behalf the charge of discrimination has been filed is not a person who has sought employment with such a primary purpose.

This is going to discourage organization. That is its purpose. There is reference in the report of the majority to paid union organizers. This applies to anybody, anybody at all, anybody who is seeking employment.

It also refers in the majority report to the fact that in some cases an employee may disrupt projects or disrupt the workplace. Look, in those cases the employer has the absolute right to discharge somebody if they disrupt a project or if they disrupt the workplace.

The real tip-off is right here on page 6. It says "These agents," and it does not have to be an agent, it says here that they often attempt to persuade bona fide employees to sign cards supporting the union. The purpose here is to try to discourage people from signing union cards.

Look, this is a deep disappointment to anybody who believes in the right of people to organize. This is class warfare. I have heard a lot of the Members of the majority talk on the floor about class warfare. That is what they are engaging in here, class warfare against working families, blue collar families, and increasingly, white collar families.

They should never have brought this to the floor. It will never pass, if it does the House, the Senate and be signed by the President. I do not know whose interest Members are trying to serve. It is not the interests of typical American working families.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Naperville, Illinois (Mr. FAWELL), chairman of the subcommittee.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will not take a great deal of time. I think that some kind of reply to these rather exaggerated statements that have already been made by the Members of the other side of the aisle is in order.

Mr. Speaker, we have four bills here that are included in one termed the Fairness for Small Business Act. From my viewpoint, and I think when we have the debate here we will find that we have relatively benign and very reasonable suggestions for improvement that will be good for employers, be good for employees, be good for labor organizations also. Truth in employment is not something that is bad, and in this bill it deals with salters, and we do have a problem.

Not all unions are involved in salting tactics, but what we simply say, and we do not repeal the Supreme Court decision in Town and Country whatsoever. We simply say that if there is a bona fide applicant that is applying, then the full accord of the Town and Country Supreme Court decision takes effect. That applicant is deemed to be an employee.

□ 1700

In no way can the nonunion shop discriminate in any way against that applicant because the applicant may be a member of a union or even a paid employee of the union.

What we do say is that if that applicant is not a bona fide applicant, if the person is seeking employment with the employer and the primary purpose of seeking employment is furthering another employment, for instance if one is full-time employed by the union, as is oftentimes the case with the salters, then we will say that if the facts show that the primary reason, that is, more than 50 percent of the reason for one applying is because they want to further some other employment, then we are suggesting that is it not common sense that under those circumstances the NLRA would not cover that kind of a situation, and only in that kind of a situation.

Then we also suggest for the small businesspeople of America, and for the small labor organizations, too, that if when there is a charge brought to the National Labor Relations Board and the general counsel decides that there is going to be a complaint that is issued, whether it is an unfair labor practice against a labor organization or unfair labor practice against an employer, and we are talking about small employers and small labor organizations that have less than 100 employees and net worth of less than $1.4 million, under those circumstances, if the small business or the labor organization actually wins the case, then the loser is the National Labor Relations Board which is financed by the taxpayers against these small businesses and against these small unions, then under those circumstances we are suggesting that the small business should be reimbursed for the legal fees because they cannot afford to continually try to defend themselves and oftentimes as many as 40 or 50 unfair labor practice charges.

Then we have several other bills, too, that I am not going to go into at this time. But suffice it to say that if Members will look carefully at this, it does not do any credit to call this union bashing. These are bills that we have worked on for quite some time. There is some bipartisanship to it. There is some opposition, obviously, but it is not union bashing. And hopefully we can have a debate that can be heightened over that kind of rhetoric.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill is the latest in a series of efforts by the Republican majority to undermine working men and women in this country. First the Republican Majority tries to silence the voices of rank-and-file Americans under their phony campaign finance reform bill. Now they want to give employers the power to hire and fire workers based solely on their support for union representation.

Again, we have very damaging legislation clothed in an innocuous title. This bill is called the Fairness for Small Business and Employees Act of 1998, but it is not fair, it is not limited to small businesses, and it certainly does nothing for employees.

Mr. Speaker, make no mistake about it, this bill permits employers to discriminate against workers on the basis of the worker's union support. It would permit and even encourage employers to interrogate applicants on their preferences for union representation and refuse to hire the applicants on that basis.

This bill overturns the unanimous 1995 Supreme Court decision. The Court said that a worker can be a company's employee and simultaneously work in support of union representation. But the Republican majority does not like the Supreme Court decision and they do not like labor unions so they plan to overturn the Court's decision with the passage of this bill.

The Republican majority says that this bill is necessary to prevent abuses by employers. This is nonsense. Employers already have more than enough power to control what goes on in the workplaces. Current law already provides that employers may prohibit union solicitation during working hours. Current law allows employers to prohibit their employees from even discussing the union during work time.

Current law allows companies to require employees to attend meetings, listen to campaign speeches and watch campaign videos. Current law allows employers to fire employees who refuse to listen or dare to ask questions in such captive-audience meetings.

Mr. Speaker, the message of this bill is that employers can never have enough power over their workers. The message of this bill is that employers' decisions to hire or fire employees can be based solely on that employee's beliefs and their desire to have a unionized workplace and their activities outside of nonworking hours. The message of this bill is regardless of how hard one works, how much they produce, how impeccable their record of service, they can be fired for wanting and seeking a better representation for themselves and their co-workers by having a union in the workplace.

Mr. Speaker, this bill is antidemocratic, it is antiworker, it is antiunion, and my colleagues ought to vote against it.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I rise in strong opposition to this bill. If there were ever a bill written to bust the unions, this is it.

Working families organized unions to give themselves a voice and to protect their safety. Unions provide workers with peace of mind because they know their leadership at the negotiating table with management is necessary to get the highest possible wages, the best possible health care and pension benefits. Without these collective bargaining guarantees, working men and women will not be afforded a place at the bargaining table to ensure the highest possible living standard for themselves and their families.

Mr. Speaker, this bill takes three steps backwards. It reverses a key provision of the National Labor Relations Act which prohibits employers from discriminating against who they hire. What this bill says is that if an employer suspects a person is applying for a job to organize a union, then the applicant is out the door. Imagine the leeway an employer would have to turn away job applicants. An employer's convenient excuse not to hire a person of color, for example, is because that person might be a union representative. This bill would gut the National Labor Relations Act to the point of ineffectiveness.

Mr. Speaker, I understand the gentleman from Pennsylvania will offer an amendment to attempt to eliminate the ambiguity. The amendment states that any "bona fide" applicant will be protected under the NLRA. What subjective criteria would an employer use to determine who is a "bona fide" employee? This is ludicrous.

Mr. Speaker, this bill should not be on the floor. Job applicants should never be discriminated against if they belong to a union, if they support a union, or if they want to participate in union organizing activities. This bill is a clear, shameless attempt to ban organized unions at nonunion workplaces. It is an attempt to deny collective bargaining rights to workers who want the right to organize.

Finally, this bill is an attempt to tear down the unanimous 1995 Supreme Court ruling that says that it is illegal to deny employment to a paid union organizer, or to fire that person, if the person applies for a job for the purposes of organizing a union in a nonunion workplace.

Mr. Speaker, in closing I ask my colleagues to vote against this bill. Its purpose is to bust unions, to bust the people that are in them, and to weaken the labor laws which were written to improve the lives of America's working families. We should not allow it. Let us fight with all we have got.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. CLAY) the ranking member on the Committee on Economic and Educational Opportunities.

Mr. CLAY. Mr. Speaker, I rise in opposition to this rule. It is appalling that we would limit amendments on a bill that tramples the rights of millions of workers and their families. It is no exaggeration that this bill rips the heart out of the National Labor Relations Act and says a good deal about the priorities of the majority.

Rather than working on measures that will improve the lives of working families, this legislation would jeopardize the great progress the NLRA has made in providing workers with better wages, benefits, and working conditions.

The enactment of the historic National Labor Relations Act was prompted by a severe and violent labor unrest. Back then, labor laws were stacked against workers. Management had the law on its side. The courts readily gave them injunctive relief, and the police also used excessive force to break strikes.

The NLRA created a careful balance of rights for employees and employers. This bill guts that law which has brought so much opportunity and stability for working families and, incidentally, for employers.

Mr. Speaker, we should emphatically reject this rule and I urge its defeat.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just respond briefly to the gentleman from Missouri (Mr. CLAY), my good friend from St. Louis, and say that we in the Committee on Rules planned to make every amendment that was submitted in order. And while I found the gentleman's remarks very interesting, the one little caveat, the gentleman did say that he did not want to offer amendments and that he just did not like the bill and did not want to do that when we were holding the hearing up in the Committee on Rules. I think it is important for the RECORD to show that.

Mr. Speaker, we were prepared to make the gentleman's amendments in order and, in fact, we did make them in order, and the gentleman from Massachusetts (Mr. MOAKLEY) offered the motion that unanimously passed in the Committee on Rules that, in fact, allowed for the withdrawal of those two amendments which had been submitted by the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, if the gentleman is going to quote me, I wish he would quote me accurately.

Mr. DREIER. Mr. Speaker, I am happy to yield to the gentleman to clarify that.

Mr. CLAY. Mr. Speaker, what I said to the gentleman was, first of all, it is not an open rule because the committee required preprinting in the RECORD.

Mr. DREIER. Mr. Speaker, that is correct.

Mr. CLAY. Mr. Speaker, the second thing I said before the Committee on Rules is that no amendments whatsoever could make this bill worth passing by this body, and that is how I wanted to be quoted. We cannot fix this piece of trash that we are now deliberating.

Mr. DREIER. Mr. Speaker, reclaiming my time, if we had an open rule, the gentleman would not offer any amendments. And we have now a very well-structured rule that would have made the amendments that the gentleman talks about offering and did initially submit in the Committee on Rules in order, and he has chosen not to do that.

Mr. CLAY. Mr. Speaker, if the gentleman would continue to yield, it would have permitted other Members who might have wanted to offer amendments to offer them. I said in my opening statement before the Committee on Rules that this should not even be considered by this body.

Mr. DREIER. Mr. Speaker, we certainly welcome the opportunity for all of our colleagues to submit amendments to us, as we had announced earlier on the House floor. And so I think that we have pretty well clarified the issue.

Mr. CLAY. Mr. Speaker, we are going through an exercise in futility. We do not know whether the Senate will take it up or not, but we know that the President has declared that he will veto this piece of legislation, and my colleagues on the other side of the aisle do not have enough votes to override a veto.

Mr. DREIER. Mr. Speaker, again reclaiming my time, I think the very hard work of the gentleman from Illinois (Mr. FAWELL) and the gentleman from Pennsylvania (Mr. GOODLING) has brought forth thoughtful legislation, and we are going to work our will here in the House.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, this bill is a thinly veiled attack on America's organized workers. It is a Republican retribution bill. If one disagrees with the Republican majority, it will not be long before they are under investigation or under attack right here on the floor of the House of Representatives.

Mr. Speaker, this bill is not just an antiunion bill, it is un-American. This bill will allow employers to discriminate against and deny employment to workers based solely on their connection with a union.

What happened to freedom of speech? What happened to freedom of assembly? What happened to freedom of association? This bill is a naked attempt to intimidate American working families. It is a shame, it is a disgrace, and it has no place on this House floor.

I urge my colleagues to kill this bad un-American bill. Get it off of the floor, and send it to the trash heap dump right now.

□ 1715

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, any list of all-American, to-die-for rights will find the right to organize there at the top of the list. This bill tears up the right to organize, throws it in the dumpster.

How many violations of basic rights can the majority cram into one bill? The answer is, as many as it will take: freedom of speech, freedom of association, the right to organize, due process. How many ways are there to break unions? We will find a litany of them in this bill, including a brazen new employer right to discriminate against a worker who wants to organize a union in their company.

We want to start a union today? We already take our job in our hands. Ask the 10,000 who are unlawfully fired every year for union activity. We have blocked labor law reform to balance and bring fairness to labor law in this Chamber for 20 years. Now we are trying to kill what is left of the right to organize.

What do they want? We are already down to only 14 percent of workers organized in unions in this country. Have we forgotten that collective bargaining is a legitimate and time-honored part of the market system? In America, trying to organize a union should not make one a second-class citizen. Defeat this rule.

Mr. DREIER. Mr. Speaker, as we continue to pursue clarification on this issue, I yield 4 minutes, once again, to my friend, the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee.

Mr. FAWELL. Mr. Speaker, I hope we can clarify what the issues are.

I think I showed up in the wrong room. We are arguing about things that have nothing to do with the legislation that we have before us, and we are being accused of union bashing and all that; and I hear my colleagues say that a union member can no longer be engaged in organizing, that there is no ability to be involved in collective bargaining and things of this sort.

All that we are trying to clarify here, while keeping in complete accord with the Supreme Court decision in Town and Country where it was made very clear that an employer cannot discriminate against any applicant on the basis of the fact that he may be affiliated with a union or that he may even be a paid employee of a union.

The Supreme Court said there is not inherently a conflict. Now, there could be a conflict, but not inherently a conflict. So all we are trying to do, and I think almost every reasonable person would say that, however, where we have an applicant where it can be said that the primary reason that he is there is not because he wants to really go to work for that employer; the primary reason he is there is because he wants to further the interests of another employer.

Now, that is all we are trying to say. And I think inherently an American concept that would, any one of us, as a Member of Congress, think is right that we should hire someone who wants to work for us, and the primary reason they want to work for us is because they want to further the interests of another employer. That is all that we are asking, and that is a factual question.

Bear in mind that when a complaint is lodged of an unfair labor practice and the issue is whether or not the applicant was bona fide or not, guess who will make the initial decision in that regard? It will be the National Labor Relations Board, the general counsel, that will determine whether there is even a cause of action or a complaint that should be issued. Now that is what we are talking about here.

There is an old saying, "If the facts are with you, pound the facts; if the law is with you, pound the law; but if you do not have either, pound the table." And I am hearing a lot of pounding of the table here, but I hope we can get back on something that is relevant.

Every once in a while, as an attorney, I would like to think that we are talking about the issue that happens to be before us. And we are straying way out. And my colleagues make good points with labor organizations I think but not much, I think, as far as common-sense debate.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, my friends on the other side of the aisle are trying to put a smiling face on this effort to hurt the American worker and talk about it in some kind of legalese because they are a bunch of lawyers. But nobody is going to be fooled around here. There are a lot of lawyers over the years that tried to hurt the unions, and nobody is going to be fooled by what they are saying on the other side of the aisle here.

I remember a time when there were Republicans, particularly in the Northeast, who supported the average worker. But this Republican leadership is at war with America's workers. And since I consider workers the backbone of America, I think it is fair to say that the Republican leadership is at war with America and what it represents.

The Republican bill will allow employers to discriminate against people they suspect of trying to organize their workplace, and the employer can refuse to hire them, or fire them if they have already been employed, because of their union ties. If this country adopts the principle that union organizing is somehow against the public interest, then we are in serious trouble. America's strength is its middle class, and that middle class will dry up without organized labor. We will start to see lower wages, fewer pensions, and less health care benefits for workers.

Mr. Speaker, let us stop the union busting. If we do not provide the ability of workers to organize, we will be in serious trouble as a nation.

Mr. MOAKLEY. Mr. Speaker, may I inquire how much time remaining I have and the gentleman from California (Mr. DREIER) has?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Massachusetts (Mr. MOAKLEY) has 11 minutes remaining, and the gentleman from California (Mr. DREIER) has 18 minutes remaining.

Mr. MOAKLEY. Is the gentleman from California interested in yielding me any time, Mr. Speaker?

Mr. DREIER. Mr. Speaker, I do not think so.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Speaker, I rise in opposition to the closed rule and the underlying antiworker bill. This debate is about fairness and the basic rights of hard-working Americans. If this bill passes, a worker could be fired just for trying to improve working conditions by organizing his or her fellow workers; or a worker may not even be hired

in the first place, even though he or she is the most qualified applicant, just because the company executive thinks that that person might organize workers in the future.

In 1995, the U.S. Supreme Court said that it is unconstitutional for American executives to fire or discriminate against those who they want to silence. But these corporate executives refuse to take no for an answer, so they are trying to bring this bill to the floor.

H.R. 3246 defies what we fundamentally believe as Americans. It gives companies a license to discriminate against hard-working Americans who only want to be able to speak out and stand up for their rights, who want a safe work environment and who want to express their desire for reasonable health care for themselves and their family, and a livable wage.

I strongly urge that my colleagues vote against this rule and the bill.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to my good friend, the gentleman from Dallas, Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, 22 million small businesses thrive in America, thanks to the free enterprise system. Today, the bill before us, the Fairness for Small Business and Employees Act, will further guarantee a fair and level playing field for all employees.

Many of America's small businesses are crippled by a tactic known as "salting." Salting has nothing to do with how our food tastes, believe me. But it will raise their blood pressure if they are a small business owner. Salting occurs when a union agent, which is known as a "salt," applies for a job in a nonunion workplace. The agent intentionally conceals his true objective, which is to sabotage the company and drive them out of business because it is nonunion.

Now, that is not American. I think my colleagues would agree. But some salts are straightforward and just come right out during the hiring process and interview and they identify themselves as union agents and they demand, if they are not fired, they will then file a grievance against the company. Either way, Mr. Speaker, this is criminal. It is not the American way.

Let me give an example of how salting destroyed a company in my home State of Texas. A nonunion electrical company in Dallas, about 30 employees, was hired to work on a school construction project. They advertised the jobs in the newspaper. The local electricians union saw the ad and paid union agents to go and apply for a job. The electrical contractor hired these agents, unaware that they had an ulterior motive. The agents then proceeded to destroy the company.

They staged small strikes by leaving the job for 3 or 4 hours, but returning just before they could be replaced. They also sabotaged the electrical work and went on to file close to 50 grievances against the company, eventually driving it out of business.

This bill will put a stop to malicious activity like this and protect small businesses in their efforts to hire loyal, hard-working employees. The small businesses will no longer fear the threat of destructive lawsuits filed by union agents.

This protection is long, long overdue. We are just asking, please, unions, obey the law, stop terrorizing working men and women. Small businesses are the backbone of this Nation and they deserve honest, hard-working, and dedicated employees. They deserve protection against unscrupulous union practices.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the rule on this legislation. The rule blocks any amendment that might solve the problems created by the bill. The fact is that current law provides that employers may dismiss any worker, including an organizer, if that worker does not work.

The Fawell bill specifically permits employers to refuse to hire workers who seek to organize the workplace. This legislation does not bring fairness to the workplace. It reverses the unanimous Supreme Court decision that stopped companies from firing or refusing to hire employees simply because they are union organizers.

By reversing their decision, this bill undoes 100 years of progress. It returns the United States to a time when the government had not learned the meaning of basic employee rights and helped unscrupulous robber barons trample workers' rights. It returns the United States to a no-balance existence between employees and their employers.

I have experienced what happens when this balance is not protected. My mother worked in a sweatshop in New Haven, Connecticut, during the early part of this century, slaving over a sewing machine for next to nothing. America must not return to this low point in our history. This bill will allow our firms to discriminate against hard-working men and women who are exercising their basic right to organize.

American families are struggling. They scramble to make ends meet. This bill gives workers an untenable choice: Lose job opportunity or give up your basic right to organize for decent pay, safer workplaces and a secure retirement. Either way, it is American families who lose.

Our Nation is stronger when everyone who wants to work is able to work. I urge my colleagues to reward work and vote against this rule.

Mr. MOAKLEY. Mr. Speaker, once again, may I inquire as to the remaining time?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) has 8 minutes remaining, and the gentleman from California (Mr. DREIER) has 15½ minutes remaining.

Mr. DREIER. Mr. Speaker, I would be happy to yield time to my friend if he were to have maybe one more speaker and I would yield him one minute if that would be an arrangement.

Mr. MOAKLEY. The generosity of my colleague is just overwhelming.

Mr. DREIER. Do not say I did not offer.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I am glad to follow my colleague from north Texas. Although I have to admit the free enterprise system is great, what concerns me about this bill is, it removes the free enterprise system from the employees. The Fairness for Small Business Employees Act of 1998 more appropriately should be called the antiworker freedom bill of 1998.

This Republican bill allows businesses to fire or refuse to hire employees based on their union affiliation. What concerns me is that this will now be used, if I went and applied right now for a job in a printing company because maybe I had at one time been a union member and maybe still am, I could not be hired based on that purpose, Mr. Speaker. And that is what this bill is allowing us to do.

I call the sponsors' attention to page 4 of the bill, where it says "a bona fide employee applicant." That language in there will allow that person making that hiring to say, you are not a bona fide employee just because you happen to maybe have been a union member or maybe a current union member, even if you are not an organizer.

□ 1730

Furthermore, it would allow employers to discriminate against people who might try to organize in the workplace by simply refusing to hire them. How can you discriminate or even determine someone who might be a union member or former union member? These type of characteristics are not determined by physical characteristics, such as eye color or hair color. What is next? Maybe we are going to discriminate against individuals because maybe their religious beliefs maybe have more propensity to be a union member. Maybe Christian employees should not apply for businesses that maybe have a different religion. Is that what we are getting to in our country?

I think we are taking away the freedom of employees, in some cases the freedom of businesses to be able to say, "We're not going to hire you based on you may be a union organizer." I think that would leave such a gaping hole in our law. This rule does not allow us to amend that, Mr. Speaker. That is what is wrong with this rule.

This bill would overturn a unanimous 1995 Supreme Court decision which held that a union organizer employed by a company was entitled to the same protections as any other employee. My concern is that just because I am a union member and I may vote for a union if I worked at a nonunion company, this bill would allow me to be called a union organizer just as a union member. That is what this bill would allow us to do, Mr. Speaker.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, I simply want to make it very, very, very clear that we do not in this legislation say that the employer has any right to discriminate against an applicant because the applicant is a member of a union. We make it clear that the Supreme Court decision is not in any way affected. One can also even be a paid member of a union. There can be no discrimination.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Naperville, IL (Mr. FAWELL).

Mr. FAWELL. Mr. Speaker, the point I want to make is that you can have all the union organizing you want. There can be no discrimination against you because you are a member of a union or were a member of a union. Nothing like that is touched.

Mr. GREEN. If the gentleman will let me respond, I will be glad to read him the section of the law that I have the concern about.

Mr. FAWELL. Let me just conclude by saying, the only person that we are concerned about is the person who is applying for a job primarily, "primarily," so that is more than half of his basic reason for applying is because he wants to further some other business. It does not even have to be a union necessarily. Then he is not a bona fide applicant. That is all we are saying here. I hope the rhetoric can be turned in that direction.

Mr. GREEN. If the gentleman will yield, I will be glad to read the section, because I may have done my apprenticeship as a printer but I also went to law school and learned how to read the law. "Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide applicant." My concern is the definition of bona fide is going to be made by that person making that decision to hire that person. That is my concern.

Mr. FAWELL. The gentleman did not read the definition of a bona fide applicant. The definition of a bona fide applicant, we tried to bend over backwards by saying it is somebody who basically is there who really does not want to work there, he is primarily there in furtherance, primarily, the motivation is in furtherance of another agency or another employment. Bear in mind that it is the general counsel of the NLRB that has to make the initial decision as to whether that is true.

Mr. GREEN. Again I am concerned about how it works in the real marketplace.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Pleasantville, PA (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise to support the rule. It is interesting as a former employer for 26 years and a small businessman myself, I guess I feel like I am suddenly the bad guy, that America's small businesses are some evil force that wants to hurt workers. If we are going to grow in this country and prosper, small business and workers and unions need to work together.

This bill addresses a practice of professional agents or union employees or other people, a competitor's employees coming into a workplace under the guise of wanting employment when they are really there to cause problems. If you had invested everything you have into a business, you would be much more willing to discuss this issue fairly. If you had everything you owned on the line in a business and somebody was coming to work for you who was there for subversive reasons, whether it is organizing or it is your competitor to cause problems with your workers, and it happens both ways, you would be very much against that. That is not fair.

In chapter 2, we talk about the NLRB to conduct hearings to determine when it is appropriate to certify a single location or multiple locations. What is wrong with business having a hearing? What is wrong with public process? Letting both sides be heard to make a decision?

Chapter 3 deals about a time limit of when the rules need to come out, the rulings. What is wrong with the 1-year time limit? That just makes sense. That is what is usually done. When it is not done, it is usually done to hurt somebody.

The final provision in chapter 4 is legal cost. If you are a small business and a bigger entity is after you and has unlimited legal ability, they can break you. If it is found that you have been fair, they should pay your legal fees. If we do not give small business a decent break in America, we are not going to grow, the poorest of America will not get jobs, because that is where they start, in small businesses who are growing and prospering. That is the future of America.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, what we are saying is that we want working families to live by a different set of rules. We want two Americas. Working families and the people who represent working families have to live by a different set of rules.

We want a loyalty oath for a worker going into a business; they must take a loyalty oath. We do not ask people going into management to take loyalty oaths. We do not ask consultants who come to work for a company to take loyalty oaths. They might be spying on you, industrial spying might take place by an outside company. Nobody asks them to take some kind of loyalty oath and prove their intent.

What would happen if Bill Gates was to say to all the young people who are information technology workers that if you want to come in, that you have got to take a loyalty oath that you are not going to use your experience here to develop some business later? Half of them who go in go into the larger enterprises for the purpose of learning the ropes, then they go out and they develop their own entrepreneurial activity. That is the American way. It is that way for businesspeople. Why should it not be that way for people who represent working people or working people?

You want a different set of rules. This is part of the Republican assault on working families. We had it in 1994. There was a Contract With America. In the Contract With America, they said nothing about attacking working families. But suddenly when they arrived, we found that they had a covert plan to attack unions and working families. They launched it. It was like Pearl Harbor. They launched a massive attack against unions and working families. The unions were not docile. They did not sit still and remain silent. They refused to take it. They fought back.

Now we have a regrouping. Speaker GINGRICH uses the metaphor often that politics is war without blood. Now you have the regrouping of all the forces. This Congress, they are now launching a new assault on working families. This is the first salvo of a new assault. There is coming later the Paycheck Fairness Act; they have got a whole line of things in respect to OSHA. Working families are still the target. This time it is going to be the Battle of the Bulge. They are going to go all out. The Paycheck Protection Act seeks to strangle, smother or stab unions in a way that they never would be able to recover. This is the opening salvo.

We have got a whole series of bills like this designed to create an America for working families and their representatives which has nothing to do with the America the rest of us live in. I appeal to the Republicans to call off their war against working families. Let us not go through it all over again. We went through it in 1994. All the salvos against OSHA, we beat them back. NLRB, you wanted to kill before by going through the appropriations process and lopping off half the budget. You had one attack after another that failed in the last Congress. Now you are launching a desperation attempt

because unions would not take it, they fought back, and they are vocal, they are defending the interests of working people.

Now we have unheard of restrictions on activities that are designed to balance off the interests of the business class. Right wing, extreme business folks are demanding that you go through with this attack, you continue this attack, and we have a series of bills that now are clearly out to destroy the rights that everybody enjoys in the name of trying to protect us from unions that are extreme and subversive. Why should organizing a union be subversive? Why should a person who goes to work for a business be automatically suspect because they are a worker? Why should the NLRB now be reformed when it existed under the Bush and Reagan administration for many years and it took them forever to come out with decisions. The NLRB, OSHA, anything that relates to working people is under attack. This is the first salvo. I think we should understand it and get ready for it.

Davis-Bacon, all of the kinds of things that have been set up over the years, sometimes by Republicans. Davis and Bacon were Republicans. But Davis-Bacon is under attack, too, the prevailing wage law. There is nothing that benefits working families in America that will not be attacked in the next few months as the new Battle of the Bulge is launched to try to get even with the unions for defending their own interests.

You had Pearl Harbor. We suffered a terrible attack at Pearl Harbor. But remember who won the war. The unions in fighting back have only done what they are supposed to do in terms of representing the interests of workers. For representing the interests of workers now, they are told you are going to have to give reports; you are going to have to let every member vote and decide on any position you take. Corporations spend billions of dollars of shareholders money, but they never have to make reports. Corporations spend large amounts of political money, millions in soft money; they outspent the unions by more than 20 to 1 in soft money in the last election, but corporations will not have to make the same kinds of reports to their members. They will not have to have their members vote on every decision they make. This is clearly an attempt to create two societies in America, one for working families and one for everybody else. I think that we should understand this assault and stop it right now.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend and fellow Californian, the gentleman from Del Mar (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, this is laughable. Now the unions have won World War II. This is the same group that said that sharks still follow the ships because of the number of slaves that fell over. The gentleman is factually challenged. He talks about American families, American working families. Over 90 percent of the jobs in this country are small business and business, nonunion. Over 90 percent are nonunion. But yet the people that support this do everything they can to kill small business.

The issue, salting, you go into a small business and you try and destroy it. How many of them have ever been organized? Zero. Yet you go in and tie them up before the board and actually force them out of business. When you talk about the working family, talk about the 90 percent that are nonunion. You talk about Davis-Bacon, you say, "Well, I'm for the children." In Washington, D.C., schools, the buildings are over 60 years old. We could have gone in and waived Davis-Bacon to build schools and saved 35 percent. But are you for children or union bosses? No, the union bosses. Why? Look at the paper. The AFL–CIO, the Teamsters, hundreds of millions of dollars that go to the DNC tied to organized crime, but yet they support their campaigns. Less than 10 percent. They know that small business cannot organize. Then 30 percent of those less than 10 percent are Republicans, 10 percent are third party, and they charge that 40 percent union dues to be used against candidates that they do not support.

The gentleman talks about working families. Why does the gentleman not support the 90 percent of working families that are out there that the unions try and persecute? No, because they fund the gentleman's campaigns.

□ 1745

Mr. DREIER. Mr. Speaker, to close debate, I yield such time as he may consume to the gentleman from Jacobus, Pennsylvania (Mr. GOODLING) the chairman of the Committee on Education and the Workforce.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have often heard it said that if one really wants to be passionate, they should not read what it is that is going to be discussed and debated, and then they can get up and wax eloquently. And I think I may have heard some of that this afternoon. I cannot believe that some of the people who were waxing eloquently have read anything about what it is that is in the legislation. It was amazing, all the things that I heard.

One of them that really concerned me is someone was talking about sweatshops, and then somebody else was talking about the workingmen and women, and I visited an area that somebody in this House represents, and I could not believe that it could happen in the United States. And guess what? Most of them were represented by organized labor. We will hear a lot more about that when we get to that point next week.

Well, let us make it very clear that all we try to do is bring labor and management into the 21st century. If we cannot bring labor and management into the 21st century, I will guarantee there will be no jobs out there for anybody. We will not be able to compete.

Keep in mind that all or most all the labor laws were written in the 1930s when it was men only in the work force, and when it was manufacturing predominantly. That is not the 21st century, my colleagues, and we have a worldwide competitive effort if we are going to succeed and provide jobs.

Well, someone said, "How are you going to determine whether somebody is a bona fide employee or not?" All we say is that one's motivation when they seek a job is 50 percent. The motivation is that, as a matter of fact, they want to help the company succeed so that they have a job, so that they can get better wages, so that they can get better fringe benefits. The motivation has to be 50 percent.

And, of course, the gentleman from Illinois said, "Who makes that determination?" The council at the NLRB, the council at the NLRB. Can we get any more protection than that in this day and age?

Well, let me refer to two editorials. I think they are kind of interesting. I think they also point out what it is we are trying do. One of them is entitled "When You Can't Afford To Win." "When You Can't Afford To Win." It happened to be a contractor in Little Rock, Arkansas. Two men appeared there, wanted a job.

He said, "I'm sorry, we don't have any openings. We don't need any employees."

Well, he thought, that was the end of it. A couple months later he is notified by the National Labor Relations Board that charges have been filed against him.

So he gets a good labor lawyer, and the labor lawyer said, "Well, there's no doubt about it, you win, but it will cost you."

Now how did the labor lawyer know that? Because most of those suits are thrown out. Most of the time they are strictly frivolous.

And so he started doing a little arithmetic, and he found out that it will cost him $23,000 to win.

Now it is a small business, he does not have $23,000. So he says, "What does it cost me to lose?"

And the lawyer said, "Well, that will only cost you 6,000. It will be 3,000 for each of the two that came looking for a job that you didn't have."

Well, he looked at his arithmetic and he said, "23,000 to win, 6,000 to lose; I'll take the $6,000." Obviously most small businesses are going to take the $6,000.

And so all we are trying to say is, well, it seems to me that one's motivation should be at least 50 percent that actually go there and work, actually try to make the business improved so they can get more money and so that they go get better benefits. It does not sound like that is some mean-spirited kind of nasty people over here on this side of the aisle that want to take advantage of the working Americans.

Well, we had one person testify who said that he was an organizer. That was his job. And he said to some of those who were involved, "Well, why don't we try to do a little more actually organizing and working to see whether we can bring about an organization of this company, because I know a couple members who are willing, who are employees who are willing to move ahead and help us."

And he was told by the higher-ups, "That isn't what we're in the business of doing. We're in the business of saying we're going to squeeze you and squeeze you and squeeze you. We want your money, we want to put you out of business. We're not necessarily interested in organizing a lot of these little businesses."

I think the closing paragraph of another editorial I saw is exactly what this is all about, exactly what we are trying to do. And the closing paragraph says, it is reassuring to know that some relief is being considered for the real victims of the status quo, workers, I repeat workers, small businesses and small unions. I repeat that also, and small unions.

That is what the legislation is all about. The legislation is to try to make things better for workers, small businesses, and small unions.

So I hope all will read the legislation and then be a little more passionate about the facts rather than fiction.

Mr. DREIER. Mr. Speaker, I urge support of this very fair and balanced rule, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 185, not voting 25, as follows:

[Roll No. 76]

YEAS—220

Aderholt	Barton	Boehner
Archer	Bass	Brady
Armey	Bateman	Bryant
Bachus	Bereuter	Bunning
Baker	Bilbray	Burr
Ballenger	Bilirakis	Burton
Barr	Bliley	Buyer
Barrett (NE)	Blunt	Callahan
Bartlett	Boehlert	Calvert
Camp	Hostettler	Pryce (OH)
Campbell	Hulshof	Quinn
Canady	Hunter	Radanovich
Castle	Hutchinson	Ramstad
Chabot	Hyde	Redmond
Chambliss	Inglis	Regula
Chenoweth	Istook	Riggs
Christensen	Jenkins	Riley
Coble	Johnson (CT)	Rogan
Coburn	Johnson, Sam	Rogers
Collins	Jones	Rohrabacher
Combest	Kasich	Ros-Lehtinen
Cook	Kelly	Roukema
Cox	Kim	Ryun
Crane	King (NY)	Salmon
Cubin	Kingston	Sanford
Cunningham	Klug	Saxton
Davis (VA)	Knollenberg	Scarborough
Deal	Kolbe	Schaefer, Dan
DeLay	LaHood	Schaffer, Bob
Dickey	Largent	Sensenbrenner
Doolittle	Latham	Sessions
Dreier	LaTourette	Shadegg
Duncan	Lazio	Shaw
Dunn	Leach	Shays
Ehlers	Lewis (CA)	Shimkus
Ehrlich	Lewis (KY)	Shuster
Emerson	Linder	Skeen
English	Livingston	Smith (MI)
Ensign	LoBiondo	Smith (NJ)
Everett	Lucas	Smith (OR)
Ewing	Manzullo	Smith (TX)
Fawell	McCollum	Smith, Linda
Foley	McCrery	Snowbarger
Fossella	McDade	Solomon
Fowler	McHugh	Souder
Fox	McInnis	Spence
Franks (NJ)	McIntosh	Stearns
Frelinghuysen	McKeon	Stenholm
Gallegly	Metcalf	Stump
Ganske	Mica	Sununu
Gekas	Miller (FL)	Talent
Gibbons	Moran (KS)	Tauzin
Gilchrest	Morella	Taylor (NC)
Gilman	Myrick	Thomas
Goode	Nethercutt	Thornberry
Goodlatte	Neumann	Thune
Goodling	Ney	Tiahrt
Goss	Northup	Traficant
Graham	Norwood	Upton
Granger	Nussle	Walsh
Greenwood	Oxley	Wamp
Gutknecht	Packard	Watkins
Hall (TX)	Pappas	Watts (OK)
Hansen	Parker	Weldon (FL)
Hastert	Paul	Weldon (PA)
Hastings (WA)	Paxon	Weller
Hayworth	Pease	White
Hefley	Peterson (PA)	Whitfield
Herger	Petri	Wicker
Hill	Pickering	Wolf
Hilleary	Pitts	Young (AK)
Hobson	Pombo	Young (FL)
Hoekstra	Porter	
Horn	Portman	

NAYS—185

Abercrombie	Condit	Frank (MA)
Ackerman	Costello	Frost
Allen	Coyne	Furse
Andrews	Cramer	Gejdenson
Baesler	Cummings	Gephardt
Baldacci	Danner	Gordon
Barcia	Davis (FL)	Green
Barrett (WI)	Davis (IL)	Gutierrez
Becerra	DeFazio	Hall (OH)
Bentsen	DeGette	Hamilton
Berman	Delahunt	Hastings (FL)
Berry	DeLauro	Hefner
Bishop	Deutsch	Hilliard
Blagojevich	Dicks	Hinchey
Blumenauer	Dingell	Hinojosa
Bonior	Dixon	Holden
Borski	Doggett	Hooley
Boswell	Dooley	Hoyer
Boucher	Doyle	Jackson (IL)
Boyd	Edwards	John
Brown (CA)	Eshoo	Johnson (WI)
Brown (OH)	Etheridge	Kanjorski
Capps	Evans	Kaptur
Carson	Farr	Kennedy (MA)
Clay	Fattah	Kennedy (RI)
Clayton	Fazio	Kennelly
Clement	Filner	Kildee
Clyburn	Forbes	Kilpatrick
Kind (WI)	Mollohan	Serrano
Kleczka	Moran (VA)	Sherman
Klink	Murtha	Sisisky
Kucinich	Nadler	Skaggs
LaFalce	Neal	Skelton
Lampson	Oberstar	Slaughter
Lantos	Obey	Smith, Adam
Levin	Olver	Snyder
Lewis (GA)	Ortiz	Spratt
Lipinski	Owens	Stabenow
Lofgren	Pallone	Stark
Lowey	Pascrell	Stokes
Luther	Pastor	Strickland
Maloney (CT)	Pelosi	Stupak
Maloney (NY)	Peterson (MN)	Tanner
Manton	Pickett	Tauscher
Markey	Pomeroy	Taylor (MS)
Martinez	Poshard	Thompson
Mascara	Price (NC)	Thurman
Matsui	Rahall	Tierney
McCarthy (MO)	Reyes	Torres
McCarthy (NY)	Rivers	Towns
McGovern	Rodriguez	Turner
McHale	Roemer	Velázquez
McIntyre	Rothman	Vento
McKinney	Roybal-Allard	Visclosky
Meehan	Rush	Watt (NC)
Meek (FL)	Sabo	Waxman
Meeks (NY)	Sanchez	Wexler
Menendez	Sanders	Weygand
Miller (CA)	Sandlin	Wise
Minge	Sawyer	Woolsey
Mink	Schumer	Wynn
Moakley	Scott	

NOT VOTING—25

Bonilla	Ford	McDermott
Brown (FL)	Gillmor	McNulty
Cannon	Gonzalez	Millender-McDonald
Cardin	Harman	Payne
Conyers	Houghton	Rangel
Cooksey	Jackson-Lee (TX)	Royce
Crapo	Jefferson	Waters
Diaz-Balart	Johnson, E. B.	Yates
Engel		

□ 1812

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 27, 1998, TO FILE 2 PRIVILEGED REPORTS ON BILLS MAKING SUPPLEMENTAL APPROPRIATIONS AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Friday, March 27, 1998 to file two privileged reports on bills, one making emergency supplemental appropriations for fiscal year 1998 and the other making supplemental appropriations for fiscal year 1998.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved on the bills.

FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 393 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3246.

□ 1817

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, with Mr. MCCOLLUM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman who studies carefully and knows what it is he says.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, H.R. 3246, the Fairness for Small Business and Employees Act is a pro-employee, pro-employer, pro-labor organization bill that is also good for the economy and good for the American taxpayers.

Having introduced last session three of the four bills which comprise the four titles of this legislation, I would like to focus my time on two titles. Title I is a targeted provision intended to help employers who are being damaged and even run out of business due to abusive union "salting" tactics. Title IV is a provision allowing small employers and small labor organizations who prevail against the NLRB unfair labor practice complaint to recover their attorney fees and costs.

Title I says simply that someone must be a "bona fide" employee applicant before the employer has an obligation to hire them under the National Labor Relations Act. Mr. Chairman, a "bona fide" applicant is defined as someone who is not primarily motivated to seek employment to further other employment or other agency status. What this means in layman's terms is that someone who is at least half-motivated to work for the employer is not impacted by this legislation at all.

Now, significantly, and I want to make this clear, the test of whether a job applicant is a "bona fide applicant" under Title I is a decision that will, in the first instance, be made by the general counsel of the NLRB. This legislation seeks only to prevent the clear-cut abusive situations in which union agents or employees openly seek a job as a "salter" with nonunion businesses.

Mr. Chairman, if people will listen to this one point: A "salter" is described in the Organizing Manual of the International Brotherhood of Electrical Workers as an employee who is expected, now get this, and I quote,

To threaten or actually apply economic pressure necessary to cause the employer to raise his prices to recoup additional costs, scale back his business activities, leave the union's jurisdiction, go out of business.

Now, that is an exact quote in the manual of the International Brotherhood of Electrical Worker's definition of what a salter can be. How is that for a bona fide applicant?

A final point on Title I. This legislation does not overturn, does not overturn the Supreme Court's decision in 1995 in Town & Country. That decision held very narrowly that the definition of an employee under the NLRA can include paid union agents. Title I does not change this, nor the definition of an employee, nor the definition of an employee applicant under the NLRA. They obviously can still be involved in customary efforts to organize a nonunion shop. It simply would make clear that someone must be at least 50 percent motivated to work for the employer to be taken seriously as a job applicant.

Title IV of the Fairness for Small Business and Employees Act is what we call a "loser pays" concept, applied against the NLRB when it loses complaints it brings against the very small companies or small labor organizations, those who have no more than 100 employees and a net worth of no more than $1.4 million.

Title IV is a reasonable provision which ensures that taxpayer dollars are spent wisely and effectively. It tells the Board that after it reviews the facts of a case, that before it issues a complaint and starts the serious machinery against the "little guy," whether union or business, that it should be very careful to make sure it has a reasonable case. If the NLRB does move forward against these small entities of modest means and loses the case, then it simply must reimburse the small business or labor organization, the winner's legal expenses.

Title IV is a winner for the small company and the small union who do not have the resources to mount an adequate defense against a well-funded, well-armed National Labor Relations Board who pays, by the way, from the taxes all of the expenses of the complainant, whether it is the union or an employer.

This bill ensures that the little guy has some sort of an incentive to fight a case and ensures that they will not be forced into bankruptcy to defend themselves, as countless employers have been. H.R. 3246 is a narrowly crafted, targeted bill attempting to correct four specific problems at the NLRB. It is benign, and it is fair, and I urge my colleagues to be serious and look at the real facts of this issue.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I rise in opposition to the bill.

This country was founded on democratic principles; on majority rule that protects the rights of the minority. Yet for 150 years, we failed to have democracy in the workplace.

In 1935, the passage of the National Labor Relations Act for the first time ensured that workers, unions, and employers were given a forum for resolving labor practice disputes.

Not every worker will join a union, or even has the desire to do so, but democracy in the workplace means that workers can make that choice. The bill before us today would take away that basic worker right to choose whether to join a union.

This legislation is being portrayed as necessary to modernize this law. I agree that given the fundamental changes in the labor market since the 1930's this law may be ripe for reform. But we must not undermine the principles of democracy that it took so long for workers to get.

In its 1994 report, the Dunlop Commission recommended a number of changes that would help clarify and update federal labor law. Unfortunately, the cosponsors of this bill did not attempt to integrate those changes into law. Instead, this bill would make it more difficult for those who want to exercise long-established and fundamental rights and responsibilities in their workplace, and make it more difficult for the Board to be an even handed arbiter of honest disagreements that arise from time to time.

Despite the nation's current economic strength, there is still a contingent of workers who have failed to benefit from this prosperity. The collective bargaining process provides a forum for workers and employers to discuss workplace conditions in an equitable way. This is especially important as companies wrestle with investment decisions in a changing technological environment and as workers struggle to adapt to that change.

Mr. Chairman, this bill would undermine democracy in the workplace. I urge my colleagues to reject this bill and to begin the serious work of ensuring that our Nation's labor laws reflect the labor market of today.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

From the start of the 104th Congress, the Republican leadership has tried to undermine workers' rights, tried to

stop the minimum wage increases, trying to take away overtime pay, trying to gut workplace and environmental safety laws. Now, these same forces are trying to deny workers the right to join unions.

This bill is an assault on the National Labor Relations Act, which protects the right of workers to engage in collective bargaining. There are valid reasons why we should all support this right. Workers with union representation earn higher wages than their nonunion counterparts, have better benefits, have greater job security, and are much more productive. This bill destroys the rights of workers to organize. Title I directly overturns the unanimous decision of the United States Supreme Court that upheld the right of workers to engage in lawful organizing activities.

Title I allows employer interrogation of workers regarding their desire to be represented by a union. In effect, Mr. Chairman, this provision resurrects employer black lists and sanctions the no-union, yellow dog contracts that labor law was specifically designed to prohibit.

Supporters contend that H.R. 3246 is necessary because employers are forced to hire uncooperative and unproductive workers. Mr. Chairman, do not be misled. The law does not require any employer to hire anyone; it only prohibits discrimination on the basis of union support. Union organizers may be fired on the same basis as any other worker.

While this bill effectively denies employment to those who wish to form a union, it does nothing to prohibit employers from hiring outside, expensive, union-busting consultants. Other parts of the bill demonstrate an equal disregard for the rights of workers. Title IV effectively denies a whole class of workers any protection under the National Labor Relations Act.

My Republican colleague referred to title IV as the loser pays provision. The term is false. Nothing in this bill requires employers to reimburse taxpayers when the Labor Board prevails in a case, but taxpayers are required to pay if the board does not win. In other words, only one loser pays, and that loser is the taxpayer.

Mr. Chairman, under the Equal Access to Justice Act, the Board is already required to pay lawyer costs for frivolous actions. In fact, the Board must pay any time it takes a position that is not substantially justified in law.

Title IV is especially unfair to workers. Workers have no private right of action under the labor law, and are wholly dependent upon the Board to enforce their rights. However, under title IV, the Board is effectively precluded from acting unless it is guaranteed a win. Such a standard clearly and obviously chills reasonable and legitimate law enforcement efforts.

Finally, Mr. Chairman, this bill upsets a 40-year-old presumption in favor of single-site bargaining units. Under title II, workers may have to organize every facility an employer owns before they have a right to bargain.

This bill is a radical attack on the basic rights of workers, and I urge its defeat.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from Missouri (Mr. TALENT), who has many talents, and is the chairman of the Committee on Small Business.

Mr. TALENT. Mr. Chairman, I thank the gentleman for yielding and for his kind compliments.

I rise in support of the bill on each of its sections, and I want to address specifically the single facility site section and to do that, Mr. Chairman, I need to explain just a little bit of the background about what happens when a union seeks to organize a multifacility site.

□ 1830

That can occur in a lot of different lines of businesses. It can occur where you have a franchisor who owns several different shops or stores, restaurants. It can occur in the trucking business.

When a union wants to organize a site like that, we first have to determine what the appropriate unit is for bargaining. Is it one of the facilities, or is it all of the facilities, or is it some, but not all?

The union has the right in the first instance to file a petition and choose the size of the bargaining unit that it wants. If a union files a petition and limits it to one facility, that is presumptively, under Board law, and has been for 30 years, under both Republican and Democratic boards, that is presumptively the appropriate unit for bargaining.

But it was also possible for the last 30 years for a question to be raised concerning representation, a question to be raised concerning whether that was, indeed, an appropriate unit of bargaining. Then the Board would look at a hearing at a number of different factors. This is the way it has been for a generation.

Mr. Chairman, the key here is to decide whether the control over those facilities is so centralized; whether, for example, labor relations are controlled by one central supervisor at one location, and that controls it for all the locations, that it would be inappropriate, as the Board says, to have bargaining in one location.

You can understand why, Mr. Chairman. We do not want to have a franchisor who has several different chain restaurants, for example, bargaining with different unions in each different restaurant, when the classic tradition has been to have one set of policies, one set of pay, one policy regarding uniforms and vacations and the rest of it.

So the Board looked at a number of different factors to determine whether control was so centralized that one single facility would be an inappropriate unit for bargaining. Then a couple of years ago the Board decided to throw all that out. The Board proposed a rule and made the whole thing turn on the presence or absence of several factors, which really do not have anything to do with what the Board has traditionally considered to be relevant; factors like are the locations more than a mile apart?

What does that have to do with anything? What does that have to do with the stability of collective bargaining? That is what we are trying to achieve with these laws, the stability of labor relations. That is why the National Labor Relations Act was passed in the mid-1930s. Mr. Chairman, you can run a business from around the world today with a fax machine and a phone, so what difference does one mile make?

Another factor, whether there are more than 15 employees in the facility, it is a totally arbitrary criterion. So Congress for the last 2 years has passed riders in appropriations bills saying, no, do not implement that rule. It will disrupt collective bargaining, it is frankly kind of silly, and do not do that.

Now what we have is an opportunity to enshrine into law the standard that has been applied for 30 years that was developed by the Kennedy-Johnson Board in the sixties. It has worked very well. It is not overburdensome. It allows these matters to be taken up in a hearing, to be disposed of. Let us do that with this bill. Let us preserve the stability of labor relations in this country, and with regard to this important aspect of collective bargaining.

Mr. CLAY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, this bill is a dangerous, a dangerous attack on America's working families and their right to organize. It is dangerous because it says some Americans do not have the same rights to free speech as the rest of us. It is dangerous because it says some Americans do not have the right to voluntarily join together in pursuit of a common goal. It is dangerous because it encourages employers to discriminate against people simply on the basis of their beliefs.

It is about silencing the voices of people who speak out for decent wages, for basic health care, for a secure retirement. It is about silencing the voices of people who make this country work and expect the same rights as any other American, the right to express their own beliefs and act upon them.

This bill is radical. It singles out people who believe in unions. It is aimed at people with the courage to stand up against injustice and intimidation to organize democratic elections for their co-workers, so they might decide for themselves whether or not they want a union, people like Betty Dumas, a woman who worked for 18 years at the Avondale Shipyard in Louisiana, who was fired because she refused to denounce her democratically elected union. Betty Dumas was fired because of her beliefs.

So what is next? Are we to sanction discrimination because of religious beliefs, because someone is Catholic or Jewish or Baptist or Muslim? Such discrimination I think everyone would agree is morally repugnant, but this bill is no different. It overturns a unanimous Supreme Court decision that prohibits discrimination based upon people's affiliation with organizations outside of work.

It sanctions discrimination against people who believe in unions, organizations that speak out for working families on issues like raising the minimum wage, extending Medicare, protecting Social Security.

This country was founded by people who fought and died for the freedom to freely associate, to elect their own leaders, and to speak their own beliefs. This bill would take away these rights from millions of American families. Once some Americans begin to lose their constitutional rights, once we say it is okay to discriminate against some people simply on the basis of their beliefs, the rights of everyone are endangered.

This bill is cynical. It is a politically motivated attempt to silence the voices of America's working families. It is a shameful attack on all of us, and it threatens the constitutional rights that Americans hold dear.

It is almost impossible today in this country to organize, anyway. To come to the floor with a bill like this that would shut down the limited window that people have to express their views and to organize for a better living for them and their families is an outrage. I urge my colleagues to vote against this bill.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BALLENGER), someone who knows what is in the legislation.

Mr. BALLENGER. Mr. Chairman, I would like to ask a question: Why would any small business man who is sane hire someone to unionize his business? It does not make sense. Yet, the present law today demands that he must.

Some unions have concocted the ideal trap for employers, an unscrupulous workplace Catch-22 called salting. Dozens of union activists will show up at a nonunion company and apply for work. If they are not hired, they file an unfair labor practice charge. If they are hired, they disrupt the workplace, destroy property, and do whatever it takes to get themselves fired. Then they file an unfair labor practice charge, alleging wrongful discharge.

Do Members know how long it takes today for the NLRB to settle this? It takes an unlawful discharge union activist case, treated like any other labor dispute. Right now the median time for the NLRB to process an unfair labor practice case is 546 days. Imagine a small business man having to face this legal charge. The uncertainty for all sides can be maddening.

The answer is to clarify the rules so an employer is not forced to hire nor keep on the job any person with ulterior motives. The proposed measure takes pains not to infringe upon employees' existing protections, such as the right to organize.

Mr. Chairman, this bill, that is the only part of this bill that has any reason for the unions to fight. In reality, for years they have been taking the small business man for granted. I think we need to pass this bill.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), someone who knows more about this bill than anybody in the House.

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me the time, and for his compliment.

Mr. Chairman, I rise to oppose this bill because of what it does to working people, what it does to working people and what it says to all people.

To understand what is wrong with this bill, we have to walk in the shoes of someone who wants a job and needs a job who does not intend to organize a union, who does not intend to do that.

If that person is denied that job because sometime in their past they have been a union officer, a union organizer, or even a union member, they have all kinds of rights. They can file a complaint with the National Labor Relations Board, and many months and many, many dollars later they can get a decision.

If they do not like that decision, they can hire an attorney. Many months and many dollars after they have hired an attorney, they can get another decision. After the decision has been made, they can have their attorney file or fight an appeal. Many months and many dollars after they have fought and determined the appeal, they get an outcome.

I may not be the expert that the gentleman from Missouri (Mr. CLAY) says on this bill, but I do have some common sense, and I know this, people who are looking for a job cannot afford to wait many months for an answer. They cannot afford the many dollars they would have to pay an attorney. They will not get the job they need because they had the audacity in the past to lead or join a union. That is what this bill does to men and women who need work and are pursuing it legitimately.

We should oppose this bill because of why it is being done. This is not a statement of fact, it is a statement of opinion. But I suspect if organized labor had slouched away from the challenge of the 1994 majority and never raised a fight, never tried to assist those of us who fight for working families to win the majority back, we would never be here this afternoon doing this. Because this is not about labor law reform, this is about retribution for people standing up for their rights at the polls and in campaigns across the country.

We ought to oppose this bill because of what this bill says. This bill is not worthy of the 1990s, it is worthy of the 1950s, because it does not remind me of the great efforts to write labor law, it reminds me of the McCarthy era in this country, when we had lists of people who could not get work.

That is what is going to happen if this bill becomes law. There will be lists of people who are troublemakers, who do not think and act the right way. The list will circulate, because she had the audacity to join a union, or he had the audacity to run for the presidency of a union.

Mr. Chairman, I oppose the bill.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I rise in very strong support of H.R. 3246, the Fairness to Small Business and Employees Act. I believe it strikes a unique balance that gives the more than 22 million small businesses in America relief against a very well-fortified bureaucratic NLRB, and gives employees something called "justice on time" to get their jobs back.

Title I, as we have heard, deals with the unions' practice of salting; some might say espionage, but it is salting, they say. It is unfortunate that many of my colleagues on the other side of the aisle have succumbed to the typical union practice of never letting the facts get in the way of a good story.

Title I sends a clear message that if a paid union employee's primary purpose is to work for the employer, he or she is protected. If, however, that person is found to be there to disrupt or inflict economic hardship on an employer, the law will not and it should not protect them.

Title II codifies the NLRB's longstanding practice of giving employers the right to argue before the Board whether a single site, and this has been repeated over and over this afternoon, whether a single site should be considered part of a bargaining unit. The Board's promotion of a one-size-fits-all approach was ill-conceived, it ignores reality, and it is inflexible in today's

competitive global economy, which has also been pointed out.

Title III ensures that employees, their families and children, should not have to wait over a year for resolution of their cases, for over a year. The Board's bureaucratic practice thumbs its nose at these hardworking men and women by taking a median time of almost 600 days, and in some cases, 800 days to decide their fate. That is wrong, it is unacceptable, and it is frankly disrespectful. H.R. 3246 corrects this by making the NLRB issue a final decision within a year. This is justice on time.

Title IV, finally, protects the little guy against the heavy-handed lawyer-fortified NLRB. It will make the Board think twice before they bring a case against a small business or a labor organization. I did say labor organization. If they lose, the Board, not the little guy, should pay for the attorneys' fees and the expenses the company or the union had to spend to defend itself.

Mr. Chairman, this is a good bill. It is a fair and balanced bill. I commend the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Illinois (Mr. FAWELL) for their efforts to bring this bill to the floor, and I urge my colleagues to vote for its passage. It is common sense.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, this is not a fair and balanced bill. This is a bill filled with dirty tricks. The tricks are pretty obvious. This bill to restrict workers from organizing is radical and extreme. The bill is part of a larger plot to create a separate America for working families and their representatives. We want workers to abide by rules that we are not making for anybody else.

□ 1845

We do not require loyalty oaths for any other category of employees. Only the workers are required; middle management will not be required and technicians will not be required to take loyalty oaths. If the bill did that, of course, we would place businesses at a great disadvantage.

Mr. Chairman, as I said before, if Bill Gates of Microsoft required that every young person coming into his company must take a loyalty oath that they are there to be "bona fide"; They are never going to be entrepreneurs on their own; they are not going to walk away with certain secrets; they are forever loyal to the company; then he would destroy his own company.

Mr. Chairman, this bill is just one of about 10 more bills that we can expect which constitute a battery of assaults in the 105th Congress on working families. It is a renewal of the assaults that took place in the 104th Congress.

Labor unions have been good for America. The Republican attack is violating a commonsense bond, a commonsense covenant with the larger society. Labor unions are responsible for a lot of good things that have happened, including their drive and their willingness to take the case for the minimum wage to the American people, resulting in public opinion being changed in ways, marshaled in ways which the Republican majority could not ignore last year.

Last year, NLRB destruction was attempted. In 1994, the assault was to wipe out the effectiveness of the NLRB by cutting its budget drastically. Now they are proposing that they speed up their deliberations. I think a lot of workers and unions would love to have NLRB speed up also. But are my colleagues on the other side of the aisle ready to say that they are willing now to give additional funding for NLRB and do what is needed to make it effective?

The Reagan and Bush years almost destroyed the effectiveness of the NLRB. Let us restore the effectiveness by restoring their funding and let them serve the interests of both workers and business.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MCKEON), a fine subcommittee chairman.

Mr. MCKEON. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time and commend him for his leadership on this bill. I also wish to commend the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee, for the fine work that he has done in bringing this bill to the floor.

Mr. Chairman, I rise in strong support of the Fairness for Small Business and Employees Act. H.R. 3246 is one of the most important pro-business, pro-employee bills before the House during this Congress. I am proud to say that I am a cosponsor of this legislation.

Mr. Chairman, as a small businessman, I am well aware of the burden of Federal taxes and regulations on our Nation's businesses. During the 105th Congress, we have fought hard to provide relief from these hardships. Last summer we enacted the Taxpayer Relief Act which provided billions of dollars in tax relief through capital gains and estate tax cuts. And now today, we are addressing the need for regulatory and legal relief.

Under this bill, we will make critical changes to the National Labor Relations Act that will ensure a more level playing field for small businesses, small unions, and employees.

H.R. 3246 incorporated four pieces of legislation that address distinctive parts of our labor law. Together, the Truth in Employment Act, the Fair Hearing Act, the Justice On Time Act, and the Fair Act accomplish much-needed reform to our Nation's labor laws.

For example, under H.R. 3246, an employer will be secure in the knowledge that an employee he or she hires is a bona fide applicant who is there to work, not there to harass or disrupt employee-company operations.

And then once they are working, employees are ensured that they will be given timely legal recourse in the event they feel their rights have been violated. Taken as a whole, these measures help correct some of the unfairness in Federal labor law and the NLRB. We need to remove these excessive, burdensome, and unfair regulations that create additional hurdles on our Nation's businesses, and I urge my colleagues to vote for H.R. 3246.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the Fairness for Small Business and Employees Act is neither. It certainly is not fair to employees and it is certainly not fair to small businesses.

Mr. Chairman, H.R. 3246 allows any employer, large or small, to refuse employment to workers because of suspected labor union affiliations. Suspected.

This is the road that this Congress and this country should not and cannot go down. First of all, the right to organize and join a labor union is a basic American civil right. Unions give American workers a voice at their jobs and they give the union worker a voice in our economy. They also give American workers a voice in our electoral process, but that is another bill we are going to have to fight.

This bill, H.R. 3246, allows employers to refuse to give jobs to workers they suspect will organize other employees to join a union. Suspect.

Once employers can refuse to hire suspected union members, what will come next? Some employers may want to refuse to hire a young woman because they suspect she will get pregnant someday, or an older man because they suspect he will take too many sick days. We could end up with employers telling job applicants, I am just not going to hire you because I do not like the way you look.

Mr. Chairman, it is every American's right not to be judged by suspicions. Surely American workers have this right too.

H.R. 3246 punishes American workers. It is antiworker, it is anti-American. And I do not suspect, but I know, we must vote it down.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. BARRETT).

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3246. The purpose of the legislation, as I see it, is to help small businesses and labor organizations in defending themselves against government bureaucracy, to ensure that employees entitled to reinstatement get their jobs back quickly, and to protect the right of employers to have a hearing to present their case in certain representation cases and, of course, to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers.

H.R. 3246 contains four narrowly drafted titles addressing four specific problem in the National Labor Relations Act. The legislation recognizes that the NLRB, which is supposed to be a neutral referee in labor disputes, is applying the law in a way that not only harms small employers, business and unions, but does a great disservice to hardworking men and women who may have been wrongly discharged.

Mr. Chairman, title 4 of the bill is modeled on the effective "loser pays" concept and requires the NLRB to pay attorney's fees and expenses of small employers of modest means, including businesses and labor organizations, who win their cases against the Board.

H.R. 3246 only applies to the smallest businesses and unions which have 100 employees or fewer and a net worth of $1.4 million or less.

The bill before us today would force the government to consider carefully the merits of the case before it proceeded against a small entity with few financial resources.

Right now, small employers often settle with the Board rather than spend significant amounts of money and time in litigation. I believe Chairman GOODLING's legislation would make certain that small employers and unions have an incentive to stand up for their rights by fighting cases of questionable merit.

Mr. Chairman, I urge my colleagues to support H.R. 3246.

Mr. CLAY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, I ask my colleagues to reject H.R. 3246. It should be titled the "Silence Working Families Act." It is a shame that the House is jeopardizing the living standards of working families.

As a result of the National Labor Relations Act and other Federal laws, working families have livable wages and job protections. And now the House is attempting to roll back the clock on American labor law.

Mr. Chairman, because workers can organize to represent themselves, workers are able to raise their families and to make this country strong. If workers have a pension, they can thank organized workers. Thank them again for the minimum wage. Thank them for the 8-hour day, for the 40-hour work week, for overtime pay and for compensatory time off. They can thank organized workers for workplace safety, for grievance procedures, and perhaps, most importantly, for health benefits.

Before workers could organize and represent themselves, we did not have maternity leave, let alone paid leave. These are just some of the improvements that all working families in the United States enjoy because of the struggles of organized labor.

Mr. Chairman, I ask my colleagues to reject H.R. 3246.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY. Mr. Chairman, thank goodness that the practice of salting is not applied to Members of Congress, because if the equivalent of salting were applied to us, we would easily see this scenario: If a Democratic Congressman or woman with a strong, proud, liberal philosophy were to seek applicants for an important job in their office, under salting an applicant who minimally met the criteria for that job position could walk in in a "Rush is Right" T-shirt and proclaim to that Congressman or woman that "I have no intention of representing your constituents, of serving the people in your district. My sole job in this job is to organize the workers on your staff against you, to create an environment resentful of your philosophy. And if you do not go along with this process, I have a right to bring your office and your staff down."

If that Congressman or woman were to make the right decision and not hire that person, they would be subject to a National Labor Relations Board complaint, subject to spending thousands of dollars to defend a reasonable decision, and perhaps compelled to hire that person.

As ridiculous as that seems, as crazy as it seems to push that merit and productivity as criteria out the window, small businesses face that same ridiculous scenario every day. Families who have risked their savings to trade a job, and who are fighting in the marketplace, are handcuffed to hire the best people, the most qualified, the meritorious people who can help them achieve their dream, and they face this every day.

Mr. Chairman, we need to pass this bill to bring some reasonableness and fairness into the decision making of small businesses. I urge my colleagues' support for this fairness and a healthier work environment.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Chairman, there they go again. The Republican leadership has once again launched a major attack on working families and the unions that simply try to represent their interests.

Just last week, Republicans passed a campaign reform bill through committee which has as its centerpiece a worker gag rule which would silence the voice of American workers by shutting them out of the political process.

Now, today Republicans have brought to the floor a bill which represents a frontal assault on the National Labor Relations Act and the rights it preserves for millions of working people across this country.

Mr. Chairman, this Republican bill would make it more difficult for workers to organize and easier for employers to get away with violating labor laws.

The most egregious part of this bill is the so-called antisalting provision which would seriously undermine the organized labor movement in the United States. Under the Republican bill, businesses could refuse to hire or fire people, just because the employer suspects them of trying to organize their workplace.

□ 1900

This legislation would overturn a unanimous Supreme Court decision which held that union organizers are entitled to the same worker protections as any other employee. In addition, the Republican bill, through the attorneys' fees provisions, would have a significant chilling effect on future NLRB actions, making it less likely that American workers will have their right vigorously defended and preserved.

Finally, the Republican bill provides employers with a new way to delay and challenge union elections and restrict the NLRB's ability to reach a fair and just conclusion on unfair labor practice complaints.

In conclusion, Mr. Chairman, one of the most precious freedoms of the working men and women in this country is their right to organize. The bill Republicans have brought to the floor today would have a devastating effect on the labor movement in this country, which has done so much to ensure that working Americans earn livable wages and have decent benefits for their families.

President Clinton has already pledged to veto this harmful legislation. I urge my colleagues on both sides of the aisle to vote against this bill and stand up for the rights of the hard-working men and women of this country.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

I would urge some of the previous speakers at some point recently to read

the bill, because if they had read the bill, they would not have made the statements that were just made. In America, if we want the unemployed to have jobs, if we want working families and the underemployed to have better jobs, we need to nourish and be fair with small business.

The Fortune 500 companies are not growing. The small businesses are growing and will grow faster if we are fair with them. What is wrong with someone, who mortgages everything they own to start a business, to ask for loyalty from those they hire to help them build that business, and if they are there to help them do that, they are going to support them? That is America.

What is wrong with a hearing process to decide if they are being organized, and they have three or four sites, whether it is going to be a single site or collective? That is America.

What is wrong with putting a limit on a decision to 1 year? A year is long enough to have delay.

What is wrong with when the big NLRB, with all of our money and all of their lawyers, comes down on small businesses unfairly, and it is proven they were unfair, that that small business can at least get its legal fees back? That is the what America ought to be standing for and what America is all about.

Those who have talked about all the labor issues of the past have not read this bill. This bill is fair to small business giving an equal, level playing field so that we can grow small businesses, so unemployed people can have jobs, so underemployed people can have a better job. It is about fairness.

If we in this Congress are fair to small business, this country will grow and the workers of America will have choices of jobs.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, H.R. 3246 is a terribly unfair bill, but it is part of a wider assault on the rights of workers to free association. This bill would turn back the clock to a time when employers had absolute power over the lives of workers and their families. It would effectively blacklist people who believe that employees need to band together to pursue their collective interest.

This bill would have a huge negative impact on the rights of all working people, making it far more difficult for the NLRB to carry out our Nation's industrial relations laws. This bill would have a devastating impact on our Nation's workers and the building and construction trades.

Every day millions of men and women go to work building the roads and bridges, building the high-rise office towers, building the schools that our Nation depends upon. These workers risk their lives every day to build America and to maintain our infrastructure. They work under harsh conditions. They are compelled to move from job to job, from one employer to another, to make a decent living.

What keeps these workers productive is the skills that they have received from thousands of joint apprenticeship programs, high-quality programs that are only available to them because of their affiliation with construction unions. It is their union membership and their dedication to training, to education, to quality work which allows them to contribute to our economy. And they are proud to carry their union membership from job to job.

This bill would make these hard-working Americans second-class citizens. It would allow employers to fire construction workers, or not hire them in the first place, simply because they have chosen union membership. This is blatantly unfair. It is discriminatory. It is unworthy of the democratic traditions of the Nation. The right to organize, the right to join a union are not simply political rights, they are moral rights essentially to protect liberty and equality and justice.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. BOB SCHAFFER).

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, I appreciate the gentleman, the distinguished chairman, yielding me the time.

Those who claim that there is some unfairness in this bill, I would submit, probably have not read the bill or are not knowledgeable about the component parts of the legislation. House Resolution 3246 does not affect in any way the legitimate applicant's or employee's rights to engage in union organizing efforts.

I have heard a lot of these stories about salting from many employers within my district in Colorado and other congressional districts in the State of Colorado. Here is how this works, for those who are unfamiliar: A union organizer with the deliberate, distinct purpose of dragging an employer before the Labor Relations Board walks into an employee's place of business and says, "Please hire me. I am a member of a labor union and I am an organizer and I am here to organize and destroy your place of business."

The employer takes the application, considers it among all other applicants, and if that employer decides for a variety of reasons, based on merit, based on qualifications, based on completeness of the application, and on many occasions based on whether the applicant signed the application, the employer may decide to hire someone more qualified.

If that occurs, in a salting case, that activity alone almost guarantees and compels a hearing in front of the National Labor Relations Board, a hearing which, if he wants to vindicate himself and declare his innocence and profess it, costs him attorneys' fees, costs him an incredible amount of time, and in the process, drags down his productivity.

What the current law does is to perpetuate a gross unfairness where one class of employees can, in fact, prey upon another group of employees in the same trade; and the only distinction between the two is that one has a singular deliberate motivation to drag down the place of employment of the others who are employed in a particular trade or business.

If someone has at least half on-the-job qualification designation under the bill, why should an employer be obligated to hire them? House Resolution 3246 guarantees small employers a hearing before the National Labor Relations Board. It has been the practice for decades in organizing cases involving single-site locations; it is the epitome of fairness, in my estimation, with workplace fairness and job security and job opportunity.

I think we should not attack those, as my colleagues on the other side of the aisle are suggesting here today, attack those who are legitimately employed, legitimately enjoy their opportunity to work, and are gainfully employed and wish to remain so.

Mr. CLAY. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN (Mr. MCCOLLUM). The gentleman from Missouri (Mr. CLAY) has 9 minutes remaining, and the gentleman from Pennsylvania (Mr. GOODLING) has 6½ minutes.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me the time.

It strikes me, the perspective of the sponsors of this legislation, I think, was fairly well recapped by the gentleman from North Carolina a few speakers ago who said, "Why would any small business member hire someone who wants to organize the workplace?" The answer is, he would not.

Well, that is the attitude of the sponsors of this bill. Right from the start, they suspect anyone they wish to hire to work with them. How sad that there are sponsors who believe that we cannot hire someone who we cannot look at as an enemy in the beginning. What a way to begin a working relationship.

Why would any new employee want to undermine the very employer who will issue her first paycheck? And more than that, if they think of some of our successful small businesses, they originally started as successful family-operated businesses, but once they became too successful they had to hire outside of the family. They expected the same

things from these nonfamily employees as they got from their family employees, probably good working competency, commitment to the effort. And the employee, whether family or not, probably expected the same as well, a decent wage, reasonable benefits.

Well, what makes anyone believe that if we start off with suspicions, we are going to be able to treat anyone as a good worker, let alone the family of your business? Unfortunately, that is what this bill says. Beware, any employer; when you hire an employee, be suspicious; never be able to believe that that person you hire wants to make you succeed as well.

How shameful that is that we in Congress will stand here and tell the American people that America's working men and women must be treated with suspicion simply because they wish to work and work under decent working conditions and also receive decent benefits. And if we cannot do that collectively, why do families do so well? They do it collectively.

Let my employee come to any place of work and say, I will work competently for you, hard. I will make you succeed. I will make you have a profit. In return, let me have something decent. And if I wish to do it collectively, as many family-operated businesses do, do not think of me as someone you suspect.

Please defeat this bill.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. FAWELL).

Mr. FAWELL. Mr. Chairman, if I could just get this thought in. The Supreme Court in Town & Country made it very clear that an employer, in dealing with an applicant, has to treat that applicant, even though the applicant is a member of a labor union and even though he may be a paid employee of a labor union, he has got to give him all of the rights of the National Labor Relations Act.

Now, the only thing that the employer is coming back here and saying is, can I not at least, when I know that that person is primarily there, and I have got the facts to prove it and I am going to have to prove it, general counsel is going to have to agree that I can prove it. But if I can show that his primary motivation is going to be able to help some other employer by whom he is employed or to whom he has a loyalty, do I not at least have that much right? Are we going to say to the small business people of America they do not even have that right?

That is what we are trying to express here. And it has nothing to do with taking away the rights of people to collectively bargain or to organize or anything of that sort.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, I hope the gentleman from Illinois will listen, because his effort to make this Title I benign is very misguided. I want to tell him specifically why he is wrong. By the way, this has nothing to do only with small employers. Title I affects all employers. So do not wrap small employers around Title I, and do not say it applies only to paid union organizers. This applies to any employee, any prospective employee, any person. And here is what it says.

The person comes up, wants a job. This gives the right to the employer to read or try to guess his or her intent. And then if the employer decides what the primary purpose is, it is very clear from their own majority report who has the burden of proof, it is the NLRB, where a charge has been filed that has to show as part of its prima facie case that the employer was wrong.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Illinois.

Mr. FAWELL. It is the affirmative defense that the employer has to undertake to be able to show.

Mr. LEVIN. But the prima facie case, reading from their own language, the burden is placed on the NLRB.

Now what is going to happen here is, my colleagues are bringing about a chilling effect on the right of people to organize. They are letting an employer guess intent and then make somebody prove that that employer is wrong. That is wrong.

Already the deck is tilted in favor of the employer under the NLRA, as it has been interpreted in terms of captive audience provisions in terms of the right of people to express themselves on the floor of the shop. They cannot do that. And now they want to go one step further and try to chill the traditional American right to associate, to organize. They are wrong.

□ 1915

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I rise in opposition to H.R. 3246 and would like to take this opportunity to talk about union organizing. The people of the debate here are correct. Much work needs to be done. But the work to be done is not to stifle people's opportunity to associate with one another on an economic basis, but to protect access of workers to legitimate union representation. The real problem which needs to be addressed in this House is that every year clear majorities of workers at businesses across the country indicate their support for union representation and 1, 2 or 3 years later the representation is still not approved because it is tied up with appeals to the National Labor Relations Board. In the meantime, unscrupulous employers too often take advantage of the opportunity to illegally intimidate, fire or commit other unfair labor practices against workers in order to defeat subsequent votes on union representation. H.R. 3246 would simply aggravate this problem. I urge my colleagues to join me in voting against the bill. Instead this House needs to pass real labor law reform.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. My goodness, how quickly some people forget our history, but we Democrats do not forget. We remember that less than 100 years ago in Centralia, Washington three woodworkers were hanged because they tried to organize the timber industry. But other courageous workers were not intimidated. They went ahead and they organized the mills and the woods. That is our history, too. We have a right in this country to organize. We must not be naive. This bill is anti-labor, it is anti-organizing, it is anti-union. Vote no.

Mr. CLAY. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I thank my good friend from Missouri, the ranking member of the Committee on Education and the Workforce, for yielding me this time. Again the name keeps changing every session. I rise in opposition to the bill. I spoke earlier on the rule. I am glad to have the opportunity to close, because, one, I think this legislation is misguided. The opposition is based on, one, it is a closed rule. There are some of us who would like to have a real debate on labor law reform. Yet from what I understood in committee, the bill came out on a party line vote and here on the floor those of us who may not serve on the committee anymore do not have the opportunity to offer amendments to correct what we see in the legislation. That is why the bill's intent is misguided, but it also did not give us the opportunity today to change it.

The bill withdraws the benefits of free enterprise to the employees. We heard a lot today about free enterprise is great, and it is. We are all products of the free enterprise system. But it includes both the employers and the employees, and that is what this bill takes away, the free enterprise of the employees. This free enterprise system is the greatest in the world and it is the greatest in the world because of the last 50 to 60 years we have recognized that. It has both sides of the bargaining table. This takes away even a level playing field. I do not think the playing field is level today even between the employee and the employer, but this makes it even more unlevel. That is why this bill is so wrong.

I guess I have a concern because only 14 percent of the workforce in the

United States is unionized. Granted, there are efforts to organize, but 14 percent. This is like taking a bomb that you could use a fly swatter for if you really needed it. This is so overwhelming for that 14 percent that are unionized. Maybe next year if this bill is not passed, maybe it is 15 percent, but we have not had this bill in the law and that percentage of unionization has actually gone down.

So what is the need for the legislation? Except to pay back a debt or to pay back what may have happened last year during the elections because organized labor tried to make sure that those of us on the floor of the House understand that, sure, they may be union bosses but they also represent workers and they represent employees to try and have that level playing field.

We do need real labor law reform, Mr. Chairman. I would have liked to have seen a real debate today and a real give and take for labor law reform, to say, yes, okay, maybe you do not like what is happening with salting. Maybe you do not like that. Also I do not like what happens because I see people who do sign cards or do have an election that may take them years before they actually have a contract or have that representation that they voted for. To this day we see people who are fired from their jobs because they voted for a union. It takes them years to get that job back. They ultimately may. But justice delayed is justice denied. That is what is happening today. That is why this bill is so wrong.

I asked earlier under the rule, because I happen to have a card in the union, I did my apprenticeship as a printer but I also went to law school. I said I had learned how to read law as well as print a newspaper. What worries me about page 4 of the bill is where it says, "Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant." My concern is that definition of bona fide employee. I looked in the report. I am concerned that the person who makes that hiring decision out there in the real world will not know what is in this report and does not even have the standard of law. If we want to make sure that they are not going to discriminate against someone because they had a union card or maybe they were a former union member, then we need to put it into law and put those protections in here.

That is why this bill ought to be defeated tonight. If it is not defeated, I hope to be able to stand here and oppose it, also, when the President vetoes it.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of my time. This is not legislation that takes a step backward, as some people mention. As a matter of fact, it is an attempt to move into the 21st century. As I indicated before, unless we can get labor and management to move into the 21st century, there is very little hope for us to be competitive with the rest of the world. It is time we understand it is the 21st century, not the 1930s when the labor laws were written, not the 1930s when we talked about men only in the workforce, when we talked about only a manufacturing economy. It is the 21st century. Someone over there said, "Why would you seek employment to harm the company? No one would ever do anything like that."

Mr. Chairman, that is what this legislation is about, because that is exactly what is happening. Do not ask me whether that is happening. Listen to someone who was a union organizer who told us before our committee. This is what he said. Why don't we "spend more time negotiating in good faith with the company we were organizing, especially when we felt we had an employee or two willing to request us as an agent to collective bargaining?"

And what was the response that he got? "He told us that the NLRB is committed to prosecute every single charge, that there was no expense to us at all for it and that, at the very least, the contractor would be forced to spend time and money to defend themselves. . . ."

That is why these two people who came to a place of employment in Arkansas and were told, "We don't have any jobs," they left, the employer thought, "Well, that's it." Lo and behold, the National Labor Relations Board said, "No, we have a case against you, a discrimination case." He went to his lawyer, his lawyer said, "You have two choices. You can fight it and win and I'll guarantee you you'll win but it will cost you $23,000. You're a small business, that may put you out of business, but you'll win. Or you can pay $6,000 and lose." He did a little arithmetic and said, "Gee, I've got to pay to lose, otherwise I'm out of business." So he paid his $6,000 to lose rather than the $23,000 to win.

How frivolous are these suits? Time and time and time again. Let me just read my colleagues a list. From Indiana, 96 charges, 96 dismissed by the National Labor Relations Board. But what did it cost the small business? $250,000, to get 96 cases dismissed. From Maine, 14 dismissed without merit. What did it cost the small business? $100,000. In Missouri, 47 dismissed, one settled for $200. What did it cost? $150,000. Little Rock, Arkansas, 20 dismissed, $80,000.

All we are saying here is that your motivation to be employed, at least 50 percent of it should be a motivation to improve the company, to work to help make the company successful, so that you get higher wages, so that you get higher fringe benefits. That is all it says. In another part of the legislation, I have watched in my district and throughout this country people lose jobs, businesses go out of business. Why? Time and time again they were sitting there waiting rather than negotiating in good faith, labor and management both, waiting for the NLRB to act, because they both thought they will act in their favor, and they took 1 year, 2 years, 3 years. Finally, no jobs, no business. We are saying in the legislation, act in a year. The employee has the right to know. The employer has the right to know. Then we can get on with the negotiating business. Those who are so concerned, as I am, about the working men and women out there, I hope you will join with me as we move forward with some legislation, because I have been in the backyards of some of those who are speaking today, and I saw the most horrible conditions anyone can ever imagine, and you say, "It is in America?" What did I see? No unemployment compensation, no workers' compensation, no OSHA, no wage and hour, a fire trap, they would all die if there were a fire. There is only one exit to get out of the place. No ventilation, no overtime. Most of them were represented by organized labor. Where is the Federal Government? Where is the State government? Where is the city? Where is OSHA? Where is Wage & Hour? Let us really think about the difficult cases that are out there. Let us not try to put people out of business who are trying to do well, because it is the employee that loses the job. We protect the employee, we protect the small business, we protect the small unions in this legislation. That should be a reason for everyone to vote for this legislation.

Mr. NETHERCUTT. Mr. Chairman, I rise today in strong support for the Fairness for Small Business and Employees Act. According to the Small Business Administration, 19 cents out of every revenue dollar is spent on complying with federal, state, and local regulations. When you consider that there are over 22 million small businesses in the United States, these regulations more than add up—they cost jobs—they stifle the American dream.

For too long Congress has passed mandates on small businesses and federal agencies have regulated compliance without even considering its impact on a business.

Mr. Chairman, today Congress is going to do the opposite—we are going to bring some relief to small businesses. I hope my colleagues will review this legislation with small business in their district in mind.

H.R. 3246 has four provisions, but I want to focus my attention on Title I, the Truth in Employment Act. Under current labor law, job applicants may or may not be seeking employment for personal reasons, they may be seeking employment as a union agent solely in order to unionize the organization. This tactic, otherwise known as salting, is not truthful nor does it benefit the company for which they hope to work.

Mr. Chairman, in salting situations a company is put in the difficult position of deciding

either to hire a union salt or face NLRB, OSHA and EEOC inquiries and possible federal fines. In some cases, salting has been used by labor unions to harass or disrupt operations of companies that have not been favorable to their cause. This is not right and I believe Congress should act.

A small business in my district has faced salting. The Company had some openings and sought applications. There were salt applicants and non-union applicants. One salt applicant told the company boss that his union determined that this Company was on the union hit list and that it better hire him or face the consequences. The salts had no desire to work at his company—only to unionize it. The company chose to hire the most qualified applicant, which this time was non-union, and his company was hit with NLRB grievances equal to the number of salt applicants. The company has spent thousands of dollars fighting these and other NLRB grievances. In the end, the federal government forced him through the NLRB to pay backpay and agree to hire those union salts on future jobs—union salts who have no desire to work for his company.

Mr. Chairman, salting affects hard-working small business owners. Unions have a valid place in American enterprise, and most union members are hard working, well intentioned employees. Unions have a heritage of which they are proud, but salting is a practice that hurts the labor movement, gives it a bad name, and doesn't serve well the cause of organized labor. I believe Congress should outlaw this tactic. I urge my colleagues to help small businesses in their district by supporting H.R. 3246.

Mr. KILDEE. Mr. Chairman, I rise today to voice my strong opposition to H.R. 3246. This bill is less about fairness to small business, and more about unfairness to working men and women.

H.R. 3246 would give employers the right to fire or deny employment to any worker they suspect is not a bona fide employee applicant. In the bill's words, someone whose primary purpose is not to work for the employer.

The committee report states that the primary purpose provision would apply to a person who was seeking a job without at least a 50 percent motivation to work for the employer.

What set of scales will employers use to determine what percentage of the employee's motivation is to work for the employer versus working to help organize his or her coworkers?

Mr. Chairman, we are not engaged in an idle academic exercise here.

This legislation will have real-life consequences for real-life men and women in real-life workplaces.

The Dunlop Commission reported that, each year, 10,000 American workers are wrongfully fired from their jobs for trying to organize their co-workers.

H.R. 3246 would further weaken the federal laws which currently provide American workers with a modicum of protection.

As others have pointed out, the U.S. Supreme Court, in an unanimous 1995 decision, ruled that a worker could be both a company employee and a paid union organizer at the same time. The High Court further stated that employers have no legal right to forbid an employee from engaging in organizing activity protected by the NLRA.

Mr. Chairman, H.R. 3246 would overturn that unanimous opinion of the High Court.

H.R. 3246 is a terrible piece of legislation which should offend the sensibilities of every Member of this House who values our American tradition of freedom, fairness, and fair play.

Let's vote down this very bad bill.

Mr. HOYER. Mr. Chairman, I rise today in strong opposition to H.R. 3246, a bill the Republican Leadership has seen fit to name the "Fairness for Small Business and Employees Act" but should more appropriately be called a "Bill to Restrict Workers from Organizing". This bill should not have been brought to the House floor for a vote. The only reason we are debating this bill today is because the Republican Leadership has, as part of their agenda, set a goal of removing the right of American workers to organize.

The current law protects American workers. An employee who holds a job for the purpose of organizing a particular workplace is an official employee of the company that hired that person. If this worker performs their employment duties satisfactorily, they are protected against discrimination for union activity and affiliation. If H.R. 3246 passes, it will overturn a 1995 unanimous Supreme Court decision that upheld the current law. This bill will give employers the ability to discriminate against workers who exercise the right to organize. The NLRB will be unable to protect workers against unfair employer discrimination.

This anti-labor bill also gives employers the ability to frustrate and delay their employees' choice of union representation. The NLRB, through years of experience, has determined that in most situations, it is appropriate for workers to organize in a single location of a multi-facility business rather than organizing at all locations at once. This bill requires the NLRB to apply a subjective test to determine the appropriate unit to organize. This will allow employers to have control over their workers' right to organize.

Mr. Chairman, H.R. 3246 is unfair to our workers and unfair to America. One of the foundations of this Nation is the right for workers to organize. This bill is at odds with basic principles of American labor law and jeopardizes fundamental worker rights. The bill is a direct and specific attack by the Republican Leadership on American workers and unions and I urge my colleagues to oppose it.

Mr. KLINK. Mr. Chairman, let's face it. It's screw labor week!

My colleagues on the other side of the aisle have decided that they know better than the entire Supreme Court in this instance.

We're not talking about a 5 to 4 decision here, or 6 to 3. Noooo. My Republican friends want to overturn a unanimous, 9 to nothing Supreme Court decision that said that union organizers who apply for and hold jobs for the purpose of organizing employees in a workplace cannot be fired for disloyalty.

By reversing the Supreme Court on this issue, my colleagues are turning labor history on its head and giving employers another tool against organized workers.

And that's what this bill is all about, my friends. It's another battle in the Congressional Republicans continuing campaign against working families.

In the last Congress, the Republican-controlled House tried to repeal the Davis-Bacon Act, which provides for prevailing wages in Federal construction contracts. They tried to repeal the Service Contract Act, which provides for prevailing wages in Federal service contracts. They also tried to abolish the Department of Labor and they cut millions from job-training funding.

They tried to ram through legislation that would allow corporations to raid worker pensions to the tune of $20 billion.

In the 105th Congress, the attack continued within H.R. 1, The Comp Time Act and the "Team Act."

Later this week, the Republicans will be at it again. They are bringing the worker gag rule to the floor of the House, which will basically require workers to get a note from their mommy before they can be politically active.

But, before I get off course, let's get back to the Anti-Organizing Act currently before us. Because it goes beyond discrimination in hiring.

It would also make it harder for workers to organize by forcing them to organize all the facilities of an employer, instead of just one. So if you tried to organize the workers in a McDonalds, you would be forced to organize every worker in every McDonalds in the country.

And while we're at it, lets have the Federal Government pay the legal bills of businesses in National Labor Relations Board disputes. That will only ensure that fewer such cases are brought, and further weaken hard won worker protections.

The masks are off Mr. Chairman. We can see the true agenda this week. It's all about screwing the working families of America.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to HR 3246, a bill that is mislabeled the Fairness For Small Business & Employees Act. It should be titled a Bill to Keep Organizers From Organizing. This bill undercuts the fundamental right of workers to choose a collective bargaining representative free from employer coercion.

This bill just adds to the arsenal of weapons that employers currently use in their anti-union campaigns. Under current law, an employer may lawfully order all employees to listen to a speech or watch a video urging them to vote against union representation. Employees who refuse to attend such anti-union campaign meetings can be disciplined, including being fired.

Employers may also prohibit union organizers from entering their premises throughout the organizing campaign, and may prohibit employees from discussing the union among themselves except during breaks. This bill gives powerful new weapons to employers, large and small, to prevent employees from joining unions.

Let me turn my attention to the issue of "salting", because it deals directly with an issue in which the Supreme court has ruled. Contrary to the claims of the bill's supporters, "salts" do not come to a company to destroy it. They come to organize the company's employees—not to eliminate their jobs. They understand that they need to fulfill the employer's legitimate expectations.

Salts must obey employer rules that apply to all employees. In addition, employers may lawfully prohibit union activity in work areas during working time. Employees engage in salting activities who do not comply with such rules, or who are insubordinate or incompetent, can be lawfully fired on the same basis as other employees.

Clearly, employers who object to salting do so not because of any inherent unfairness in the practice, but because they object to the fact that the law permits their employees to organize, and prohibits them from firing employees who promote union organizing.

The Supreme Court, in a unanimous 1995 decision, NLRB v. Town and Country Electric, ruled that a worker could be both a company employee and a paid union organizer at the same time, and that an employer has no legal right to require that a worker, as a condition of employment, refrain from engaging in union activity protected by the NLRA. This bill would effectively overturn that ruling. This is unacceptable and should not be allowed.

I urge my colleagues to vote against this bill.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise in opposition to H.R. 3246, another example of the majority's continued assault on the rights of working men and women in this country.

If allowed to become law, H.R. 3246 would shift power away from workers, making it more difficult for them to organize and for the National Labor Relations Board to stop employers from violating labor laws.

When will these attacks on the men and women who are the backbone of this country end?

H.R. 3246 would allow employers to discriminate against people they suspected of trying to organize their workplace by refusing to hire them or firing them if they are already employed at the company. This clearly anti-union bill is intended to overturn a unanimous Supreme Court decision of 1995 which held that a union organizer employed by a company was entitled the same protections as any other employee.

My colleagues, employees' rights are already seriously in jeopardy. Thousands of working Americans lose their jobs every year just for supporting union organizing. H.R. 3246 would make an already difficult period of time for American workers even worse. We must oppose this attempt to give employers a license to discriminate against workers rights to organize and protect the integrity of the National Labor Relations Act as well as the collective bargaining process.

Support our American workers—vote no on H.R. 3246.

Mr. BONILLA. Mr. Chairman, I rise today in support of the Fairness for Small Business and Employees Act. This bill might just as easily be called the No-Brainer Act. If you support creating jobs and promoting a strong economy, you should support this bill. It should be a No-Brainer for all of us to support this goal.

This bill is necessary because for years the NLRB has considered imposing a single site rule. For over 40 years, the courts have interpreted the law to provide employers with the right to a hearing on whether a single facility selected by a union is an appropriate bargaining unit. A reversal of this precedence by NLRB would create a litigation nightmare. Simultaneously, it would increase business costs threatening jobs. It should be a No-Brainer to realize that this is a dangerous path to take. Passage of this bill helps ensure NLRB will not threaten jobs with this approach in the future.

This bill makes other necessary reforms to abuses of the current system of labor-management relations. The bill stops "salting," a practice where union organizers seek employment solely to organize a workforce. It should be a No-Brainer to recognize that a company must make hiring decision based on an employee's genuine interest in contributing to a company's success, not on their desire to promote big labor's agenda. The bill requires the NLRB to issue a final decision on certain unfair labor complaints within a year.

It should be a No-Brainer to support resolving these disputes in a timely manner and not leaving companies in bureaucratic limbo.

Finally, the bill requires the NLRB to pay attorney fees and costs to parties who prevail against the NLRB in administrative and court proceedings. It should be a No-Brainer to support this common sense effort to deter bureaucratic persecution.

The bill before us represents a common sense effort to protect our economic prosperity from costly government interference and small business from big labor.

Mr. SCHUMER. Mr. Chairman, I rise today to oppose H.R. 3246, another attempt by this Republican Congress to cripple the ability of working men and women of America to organize.

At the beginning of the 20th century, workers organized in order to attain a better standard of living for their families. As we approach the end of the century, unions still serve this noble purpose. The bill before us is another partisan attempt to end unions as we know them.

H.R. 3246 would debilitate unions by putting a scarlet letter on union organizers. Title I of this legislation makes it legal for companies to discriminate against job applicants who have been involved in union organizing. Furthermore, it would overturn a unanimous 1995 Supreme Court ruling that allows unions to place organizers in jobs for the purpose of organizing a particular shop.

The workers in my home state of New York cannot afford to lose these protections. Just this month, a U.S. District Judge ordered a company in Syracuse to rehire Kathy Saumier and Clara Sullivan. These two women had been fired for trying to organize a union at the plant because of unsafe working conditions. Under this law, those women would still be jobless because of their activism on behalf of their co-workers, In fact, companies could refuse to hire workers like Kathy Saumier and Clara Sullivan simply because they might become leaders. That is unfair. That is un-American.

Mr. Chairman, to protect American workers, we need to preserve their right to organize. That is why we need to oppose this legislation. I urge my colleagues to vote "no."

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 3246 is as follows:

H.R. 3246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness for Small Business and Employees Act of 1998".

TITLE I—TRUTH IN EMPLOYMENT

SEC. 101. FINDINGS.

Congress finds that:

(1) An atmosphere of trust and civility in labor-management relationships is essential to a productive workplace and a healthy economy.

(2) The tactic of using professional union organizers and agents to infiltrate a targeted employer's workplace, a practice commonly referred to as "salting" has evolved into an aggressive form of harassment not contemplated when the National Labor Relations Act was enacted and threatens the balance of rights which is fundamental to our system of collective bargaining.

(3) Increasingly, union organizers are seeking employment with nonunion employers not because of a desire to work for such employers but primarily to organize the employees of such employers or to inflict economic harm specifically designed to put nonunion competitors out of business, or to do both.

(4) While no employer may discriminate against employees based upon the views of employees concerning collective bargaining, an employer should have the right to expect job applicants to be primarily interested in utilizing the skills of the applicants to further the goals of the business of the employer.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining;

(2) to preserve the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act; and

(3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

SEC. 103. PROTECTION OF EMPLOYER RIGHTS.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding after and below paragraph (5) the following:

"Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status: *Provided,* That this sentence shall not affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant.".

TITLE II—FAIR HEARING

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Bargaining unit determinations by their nature require the type of fact-specific analysis that only case-by-case adjudication allows.

(2) The National Labor Relations Board has for decades held hearings to determine the appropriateness of certifying a single location bargaining unit.

(3) The imprecision of a blanket rule limiting the factors considered material to determining the appropriateness of a single location bargaining unit detracts from the National Labor Relations Act's goal of promoting stability in labor relations.

SEC. 202. PURPOSE.

The purpose of this title is to ensure that the National Labor Relations Board conducts a hearing process and specific analysis of whether or not a single location bargaining unit is appropriate, given all of the relevant facts and circumstances of a particular case.

SEC. 203. REPRESENTATIVES AND ELECTIONS.

Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

"(6) If a petition for an election requests the Board to certify a unit which includes the employees employed at one or more facilities of a multi-facility employer, and in the absence of an agreement by the parties (stipulation for certification upon consent election or agreement for consent election) regarding the appropriateness of the bargaining unit at issue for purposes of subsection (b), the Board shall provide for a hearing upon due notice to determine the appropriateness of the bargaining unit. In making its determination, the Board shall consider functional integration, centralized control, common skills, functions and working conditions, permanent and temporary employee interchange, geographical separation, local autonomy, the number of employees, bargaining history, and such other factors as the Board considers appropriate.".

TITLE III—JUSTICE ON TIME

SEC. 301. FINDINGS.

The Congress finds the following:

(1) An employee has a right under the National Labor Relations Act to be free from discrimination with regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. The Congress, the National Labor Relations Board, and the courts have recognized that the discharge of an employee to encourage or discourage union membership has a particularly chilling effect on the exercise of rights provided under section 7.

(2) Although an employee who has been discharged because of support or lack of support for a labor organization has a right to be reinstated to the previously held position with backpay, reinstatement is often ordered months and even years after the initial discharge due to the lengthy delays in the processing of unfair labor practice charges by the National Labor Relations Board and to the several layers of appeal under the National Labor Relations Act.

(3) In order to minimize the chilling effect on the exercise of rights provided under section 7 caused by an unlawful discharge and to maximize the effectiveness of the remedies for unlawful discrimination under the National Labor Relations Act, the National Labor Relations Board should resolve in a timely manner all unfair labor practice complaints alleging that an employee has been unlawfully discharged to encourage or discourage membership in a labor organization.

(4) Expeditious resolution of such complaints would benefit all parties not only by ensuring swift justice, but also by reducing the costs of litigation and backpay awards.

SEC. 302. PURPOSE.

The purpose of this title is to ensure that the National Labor Relations Board resolves in a timely manner all unfair labor practice complaints alleging that an employee has been unlawfully discharged to encourage or discourage membership in a labor organization.

SEC. 303. TIMELY RESOLUTION.

Section 10(m) of the National Labor Relations Act is amended by adding at the end the following new sentence: "Whenever a complaint is issued as provided in subsection (b) upon a charge that any person has engaged in or is engaging in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 involving an unlawful discharge, the Board shall state its findings of fact and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice and to take such affirmative action, including reinstatement of an employee with or without backpay, as will effectuate the policies of this Act, or shall state its findings of fact and issue an order dismissing the said complaint, not later than 365 days after the filing of the unfair labor practice charge with the Board except in cases of extreme complexity. The Board shall submit a report annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate regarding any cases pending for more than 1 year, including an explanation of the factors contributing to such a delay and recommendations for prompt resolution of such cases.".

SEC. 304. REGULATIONS.

The Board may issue such regulations as are necessary to carry out the purposes of this title.

TITLE IV—ATTORNEYS FEES

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) Certain small businesses and labor organizations are at a great disadvantage in terms of expertise and resources when facing actions brought by the National Labor Relations Board.

(2) The attempt to "level the playing field" for small businesses and labor organizations by means of the Equal Access to Justice Act has proven ineffective and has been underutilized by these small entities in their actions before the National Labor Relations Board.

(3) The greater expertise and resources of the National Labor Relations Board as compared with those of small businesses and labor organizations necessitate a standard that awards fees and costs to certain small entities when they prevail against the National Labor Relations Board.

(b) PURPOSE.—It is the purpose of this title—

(1) to ensure that certain small businesses and labor organizations will not be deterred from seeking review of, or defending against, actions brought against them by the National Labor Relations Board because of the expense involved in securing vindication of their rights;

(2) to reduce the disparity in resources and expertise between certain small businesses and labor organizations and the National Labor Relations Board; and

(3) to make the National Labor Relations Board more accountable for its enforcement actions against certain small businesses and labor organizations by awarding fees and costs to these entities when they prevail against the National Labor Relations Board.

SEC. 402. AMENDMENT TO NATIONAL LABOR RELATIONS ACT.

The National Labor Relations Act (29 U.S.C. 151 and following) is amended by adding at the end the following new section:

"AWARDS OF ATTORNEYS' FEES AND COSTS

"SEC. 20. (a) ADMINISTRATIVE PROCEEDINGS.—An employer who, or a labor organization that—

"(1) is the prevailing party in an adversary adjudication conducted by the Board under this or any other Act, and

"(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Board was substantially justified or special circumstances make an award unjust. For purposes of this subsection, the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

"(b) COURT PROCEEDINGS.—An employer who, or a labor organization that—

"(1) is the prevailing party in a civil action, including proceedings for judicial review of agency action by the Board, brought by or against the Board, and

"(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the civil action was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) or this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.".

SEC. 403. APPLICABILITY.

(a) AGENCY PROCEEDINGS.—Subsection (a) of section 20 of the National Labor Relations Act, as added by section 402 of this Act, applies to agency proceedings commenced on or after the date of the enactment of this Act.

(b) COURT PROCEEDINGS.—Subsection (b) of section 20 of the National Labor Relations Act, as added by section 402 of this Act, applies to civil actions commenced on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the bill is in order except the amendment printed in House Report 105–463, which may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, pursuant to the rule, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GOODLING:
Page 4, line 17, before the first period, insert ", including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my amendment further spells out in the most direct and clear manner possible the intent of title I, which ensures that the truth in employment provisions of the Fairness for Small Business and Employees Act do not infringe upon any rights or protection for employees under the National Labor Relations Act. My amendment lays out specifically some of the important essential rights granted workers under the NLRA which are not impacted under title I so long as an individual is a bona fide employee applicant in that they are at least half motivated to work for the employer. While H.R. 3246, as currently drafted, does make clear that title I shall not affect the rights and responsibilities under this act of any employee who is or was a bona fide employee applicant, my amendment makes it explicitly clear that this includes the right to self-organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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Under my amendment, there should be absolutely no confusion whatsoever that H.R. 3246 does not seek to punish anyone for their union activities. It simply amends the NLRA to clarify that an employer is not required to hire anyone who seeks a job primarily to further other employment or agency status. So long as someone is at least half motivated to be a productive employee, then title I does not apply to them at all.

Title I of H.R. 3246 is only intended to address the egregious, abusive, salting practices involving individuals who, it is clear, are not applying for a job to go to work every day and be a productive worker, but rather applying so they can start filing frivolous charges, and I read all of those frivolous charges that are always thrown out, but rather are applying so they can start filing frivolous charges against the employer with NLRB in an attempt to cost the company money defending itself.

Mr. FAWELL. Mr. Chairman, would the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, there has been a lot of information floating around this week that title I of the Fairness for Small Business and Employees Act would gut workers' rights under the National Labor Relations Act and would take away employees' right to organize and participate in legitimate collective bargaining activities.

Does H.R. 3246 do any of this?

Mr. GOODLING. It does not. In fact, as I pointed out, the legislation has a provision spelling out quite clearly that nothing in the act shall, "affect the rights and responsibilities granted by the NRA," of any employee who is or was a bona fide employee applicant. The amendment I have offered is intended to provide all the more assurance that title I in no way would infringe on any NRA rights.

Mr. FAWELL. And what does all this mean in English?

Mr. GOODLING. It means that if an individual applies for a job at a company and expresses at least 50 percent interest in actually working there, then that individual is entitled to all the rights granted by the National Labor Relations Act. In fact, an individual could very well be a paid union organizer, and title I would not impact them one bit, so long as they are not applying for the job with the primary purpose of furthering interest of some other employer.

Mr. FAWELL. You have mentioned this 50 percent test several times. Who would determine what the level is of an applicant's motivation to work for the employer?

Mr. GOODLING. The level of intent would be determined by the general counsel of the National Labor Relations Board, and someone just a little while ago said we are putting it on the National Labor Relations Board. That is exactly who makes the decisions now. We are not giving them anything new. The same individual makes the determination of the intent of employers under current case law. If the appropriate referee of an employer's intent is the NLRB's general counsel, then certainly an appropriate referee of an employee's intent is also NLRB's general counsel.

Mr. FAWELL. I have also heard it said this week that union salting is protected by the United States Supreme Court in its unanimous 1995 Town and Country decision, and that title I seeks to overturn this case which held that union organizers are employees under the NLRA and enjoy all of the act's protections.

Mr. GOODLING. That is deliberate misinformation as well. The holding of NLRB versus Town and Country Electric was very narrow. The Supreme Court held simply that paid union organizers can fall within the liberal statutory definition of "employee" contained in section 23 of the NLRA.

Title I of the Fairness for Small Business and Employees Act does not change the definition of "employee" or "employee applicant" under the NLRA. It simply would change the NLRB's enforcement of section A by declaring that employers may refuse to hire individuals who are not at least half motivated to work for the employer. So long as even a paid union organizer is at least 50 percent motivated to work for the employer, he or she can not be refused a job in violation of section 8(A).

Title I thus established a test which does not seek to overrule Town and Country, does not infringe on the legitimate rights of bona fide employees and employee applicants to organize on behalf of unions within the workplace. Indeed, the Supreme Court's holding that an individual can be servant of two masters at the same time is similarly left untouched.

The CHAIRMAN. Is there an opponent of the amendment who seeks recognition?

Mr. CLAY. Mr. Chairman, I am not opposed to the amendment, but I ask to claim the time in opposition so I can speak in favor of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri for 10 minutes.

Mr. CLAY. Mr. Chairman, the majority must have some serious misgivings about title I of its own bill. Earlier this week, the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee, prefiled and then withdrew an amendment to strike title I from the bill. Now the gentleman from Pennsylvania is trying to salvage this extreme and reckless title through this amendment.

The truth is this amendment does nothing to fix this bill. It merely restates the current law protections while still allowing employers to refuse employment to workers, based on the outside group affiliations.

I have no intentions of opposing the amendment because it does nothing.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the ranking member for yielding this time to me.

I also support the amendment, but I do want to speak about how little I think it does to improve the very negative underlying bill.

I find it rather ironic that the party of Abraham Lincoln would be pursuing a piece of legislation that has such negative implications for people's individual liberty and autonomy. It is a concern that really has not been brought up yet about this bill, but it is a very practical one, and I want to spend a few minutes talking about it.

A few minutes ago, our friends from Pennsylvania and Illinois said that the party who would determine the employee's intent as to primary purpose

would be the general counsel of the National Labor Relations Board. In fact, as a practical matter, the first person who would determine the employee's principal purpose would be the employer. The employer is going to determine what the principal or primary purpose of the employee is.

How exactly is the employer going to do that? Is the employer going to speak? I assume the employer is going to interview the employee, and most employees are going to say, my purpose is to do the job well. Then the employer has to start to ask other questions. Is the employer going to ask the spouse of the applicant what the applicant said to his or her spouse? Is the employer going to ask prior employers of the employee further information than that which would be on the normal letter of reference? Is the employer going to go to persons that the applicant may have talked to at the place of religious worship or at a social gathering or political gathering the person may have gone to?

I would suggest to my colleagues that the practical implication of this bill is that it opens up an Orwellian can of worms where an employer clearly has the right to ask all kinds of questions about what the employee's motive might be, and that Orwellian can of worms runs into some very real privacy considerations of the applicant or employee.

I am sure that Abraham Lincoln, who founded his party in part on the principle of individual liberty and autonomy, would be rather surprised to know that one of the prices now of applying for a job is evidently giving the employer to whom you have applied carte blanche to find out what you think and what you say to people outside the normal job application process. And if this were to become law, which I doubt and hope does not occur, I wonder exactly how this inquiry would be conducted and by whom. It is one more reason, whether any union or not any union, whether in the work force or not in the work force, it is one more reason to oppose this underlying piece of legislation.

Mr. GOODLING. Mr. Chairman, I yield myself 2 minutes.

I wish to continue the colloquy with the gentleman from Illinois (Mr. FAWELL).

As I was indicating, title I thus establishes a test which does not seek to overrule, does not seek to overrule Town and Country, does not infringe on the legitimate rights of bona fide employees and employee applicants to organize on behalf of unions within the workplace. Indeed the Supreme Court's holding that an individual can be a servant of two masters at the same time is similarly left untouched. Title I simply calls for at least 50 percent to be for the employer. If an applicant cannot show the NLRB's general counsel that he or she sought the job at least half because they really wanted to be an employee, then I believe we would all agree that the employer should not have to hire them.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Illinois.

Mr. FAWELL. So under H.R. 3246, Mr. Chairman, even organizers are not prohibited from getting jobs.

Mr. GOODLING. That is correct. Title I is completely consistent with the policies of the National Labor Relations Act. All the legislation does is give the employer some comfort that it is hiring someone who really wants to work for the employer, and as my amendment points out with particularity, title I in no way infringes on the rights granted by the National Labor Relations Act.

I would hope my colleagues on both sides of the aisle support my amendment, which while granting some protection to the employers against clear instances of salting abuses, also makes crystal clear this legislation does not in any way scale back on the rights contained in the National Labor Relations Act.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding and I appreciate the gentleman from Pennsylvania, the chairman, trying to correct the impression that I have from this bill. I think the problem is that this bill tends to want to throw out the existing law and existing court cases with regards to what constitutes a bona fide employee. The court has ruled on this, and the effect of this, of course, is to drag it back into court, change the circumstances and to undercut the ability of someone to be employed that happens to harbor the notion of organizing and of exercising their freedom to in fact seek a collective bargaining election or join a union.

That is what this is all about. It just reshuffles the deck to bring it back up again in the court with the option that they can undercut that person's ability to do what they see and what we think is proper in a free economy.

As has been said by my colleague from New Jersey, I think this goes right to the issue of mind control. This invites absolute control by the employers over the thoughts and over the views of employees with regards to how they ought to be organized and their opportunity to attain decent working conditions and wages.

Mr. Chairman, I rise in opposition to this bill H.R. 3246.

This measure has numerous provisions which are specifically defined to frustrate the ability of working men and women from organizing and joining a union. The result denys the fundamental freedom of association and speech at the core of our society and our basic freedoms.

The collective bargaining process is the vehicle that serves the workers and employer to achieve an agreed upon condition on the job with a fair wage and benefits.

Unfortunately because of the evolution of our U.S. mixed economy labor unions and organizations represent less than 20% of our total labor force. This is also a result of the fact that labor law and policy has not kept pace with the changes and a concerted effort by many businesses to contest and successfully resist efforts by workers to achieve union representation and access to the collective bargaining process.

This bill before the House will make that process even more difficult. In a situation where workers are already at a disadvantage this bill seeks to tilt the table and stack the deck against workers.

Working men and women deserve a fair shake and regard the law as a measure to undercut and shred what remains of our labor laws.

This bill plain and simple permits an employer to fire or not even hire a person who has an interest and may play a role in organizing a collective bargaining election. Today that is an unfair labor practice, but this proposes to make such a discriminatory action legal. Today a prospective worker's values and thoughts are private and an employer appropriately considers an employment situation based on qualification and the willingness of a worker to perform his or her assigned tasks. This bill crosses the line into mind control and invites absolute employer control of the workers' private thoughts and values as to their interest in collective bargaining and joining a union. Control of the communication and the thoughts of a worker deny the fundamental freedoms that characterize a free society and a free labor force.

Additionally this measure which purports to advocate for small business denys a collective bargaining election for a separate work place, rather it mandates that the collective bargaining election must take place on an overly broad basis rather than permit a one location election—turning a single facility collective bargaining election into a multi-state or even national collective bargaining election. Both the provision to prevent the hiring and permitting the firing of a employee and the mandate to deny a single site election overturn court cases and current law that permits union organization on this basis.

This legislation turns the process of litigation and National Labor Relations Board appeals inside out requiring in the bill that small business must be compensated if they prevail in a decision. Today the NLRB and court have such discretion, but to require such no matter the circumstance will assure that almost all decisions will be carried forth with the hope of success and payment.

These measures certainly don't achieve a common sense result in terms of labor-management accord and fair treatment, rather they are a transparent attempt to superimpose a disadvantage upon working men and women

and their access to the collective bargaining process. One may wonder if this is some sort of retaliation for the fact that organized labor has become more politically active in recent years and that this in some small minds is the way to penalize labor.

These actions are poor policy and the wrong way to force or win the day. The reaction to this bill can only be to reject the proponents and to re-double the effort to change the political equation.

Rather than loading the NLRB down with more paper work and appeals and requests for reports along with the mandate to pay legal fees for those who successfully appeal, Congress should provide the resources that would address the backlog that has been building up the past decade to permit timely investigation and decision making by the NLRB.

This measure is a bad faith effort to disadvantage workers and the unions they may choose to represent them. I certainly urge its defeat.

Mr. CLAY. Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

I would merely indicate to the gentleman who just spoke that obviously he has little faith in the general counsel at the National Labor Relations Board. I will guarantee him that all employees have great confidence in that general counsel. I will guarantee him that organized labor has great confidence in that general counsel at the National Labor Relations Board.

Let me close simply by repeating what was said in an editorial in a paper that I read today: It is reassuring to know that some relief is being considered for the real victims of status quo: workers, small businesses, and small unions.

Let me repeat that: It is reassuring to know that some relief is being considered for the real victims of status quo: workers, small businesses and small unions.

My colleagues have an opportunity to help all three. All they have to do is vote yes on the amendment and on the legislation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 398, noes 0, not voting 32, as follows:.

[Roll No. 77]

AYES—398

Abercrombie	Aderholt	Andrews
Ackerman	Allen	Archer
Armey	Ehrlich	LaFalce
Bachus	Emerson	LaHood
Baesler	English	Lampson
Baker	Ensign	Lantos
Baldacci	Eshoo	Largent
Ballenger	Etheridge	Latham
Barcia	Evans	LaTourette
Barr	Everett	Lazio
Barrett (NE)	Ewing	Leach
Barrett (WI)	Farr	Levin
Bartlett	Fattah	Lewis (CA)
Barton	Fawell	Lewis (GA)
Bass	Fazio	Lewis (KY)
Bateman	Filner	Linder
Becerra	Foley	Lipinski
Bentsen	Forbes	Livingston
Bereuter	Fossella	LoBiondo
Berman	Fowler	Lofgren
Berry	Fox	Lowey
Bilbray	Frank (MA)	Lucas
Bilirakis	Franks (NJ)	Luther
Bishop	Frelinghuysen	Maloney (CT)
Blagojevich	Frost	Maloney (NY)
Bliley	Furse	Manton
Blumenauer	Gallegly	Manzullo
Blunt	Ganske	Martinez
Boehlert	Gejdenson	Mascara
Boehner	Gekas	Matsui
Bonior	Gephardt	McCarthy (MO)
Borski	Gibbons	McCarthy (NY)
Boswell	Gilchrest	McCollum
Boucher	Gillmor	McCrery
Boyd	Gilman	McGovern
Brady	Goode	McHale
Brown (CA)	Goodlatte	McHugh
Brown (OH)	Goodling	McInnis
Bryant	Gordon	McIntosh
Bunning	Goss	McIntyre
Burr	Graham	McKeon
Burton	Granger	McKinney
Buyer	Green	Meehan
Callahan	Greenwood	Meek (FL)
Calvert	Gutierrez	Meeks (NY)
Camp	Gutknecht	Menendez
Campbell	Hall (OH)	Metcalf
Canady	Hall (TX)	Mica
Capps	Hamilton	Miller (CA)
Carson	Hansen	Miller (FL)
Castle	Hastert	Minge
Chabot	Hastings (FL)	Mink
Chambliss	Hastings (WA)	Moakley
Chenoweth	Hayworth	Mollohan
Christensen	Hefley	Moran (KS)
Clay	Herger	Moran (VA)
Clayton	Hill	Morella
Clement	Hilleary	Murtha
Clyburn	Hilliard	Myrick
Coble	Hinchey	Nadler
Coburn	Hinojosa	Neal
Collins	Hobson	Nethercutt
Combest	Hoekstra	Neumann
Condit	Holden	Ney
Cook	Hooley	Northup
Costello	Horn	Norwood
Cox	Hostettler	Nussle
Coyne	Hoyer	Oberstar
Cramer	Hulshof	Obey
Crane	Hutchinson	Olver
Cubin	Hyde	Ortiz
Cummings	Inglis	Owens
Cunningham	Istook	Oxley
Danner	Jackson (IL)	Packard
Davis (FL)	Jenkins	Pallone
Davis (IL)	John	Pappas
Davis (VA)	Johnson (CT)	Parker
Deal	Johnson, Sam	Pascrell
DeFazio	Jones	Pastor
DeGette	Kanjorski	Paul
Delahunt	Kaptur	Paxon
DeLauro	Kasich	Pease
DeLay	Kelly	Pelosi
Deutsch	Kennedy (MA)	Peterson (MN)
Diaz-Balart	Kennedy (RI)	Peterson (PA)
Dickey	Kennelly	Petri
Dicks	Kildee	Pickering
Dingell	Kilpatrick	Pickett
Dixon	Kim	Pitts
Doggett	Kind (WI)	Pombo
Dooley	King (NY)	Pomeroy
Doolittle	Kingston	Porter
Doyle	Kleczka	Portman
Dreier	Klink	Poshard
Duncan	Klug	Price (NC)
Dunn	Knollenberg	Pryce (OH)
Edwards	Kolbe	Quinn
Ehlers	Kucinich	Radanovich
Rahall	Shaw	Thompson
Ramstad	Shays	Thornberry
Redmond	Shimkus	Thune
Regula	Shuster	Thurman
Reyes	Sisisky	Tiahrt
Riggs	Skaggs	Tierney
Riley	Skeen	Torres
Rivers	Skelton	Towns
Rodriguez	Slaughter	Traficant
Roemer	Smith (MI)	Turner
Rogan	Smith (NJ)	Upton
Rohrabacher	Smith, Adam	Velázquez
Ros-Lehtinen	Smith, Linda	Vento
Rothman	Snowbarger	Visclosky
Roukema	Snyder	Walsh
Roybal-Allard	Solomon	Wamp
Rush	Souder	Watkins
Ryun	Spence	Watt (NC)
Sabo	Spratt	Watts (OK)
Salmon	Stabenow	Waxman
Sanchez	Stark	Weldon (FL)
Sanders	Stearns	Weldon (PA)
Sandlin	Stenholm	Weller
Sanford	Stokes	Wexler
Sawyer	Strickland	Weygand
Saxton	Stump	White
Scarborough	Stupak	Whitfield
Schaefer, Dan	Sununu	Wicker
Schaffer, Bob	Talent	Wise
Schumer	Tanner	Wolf
Scott	Tauscher	Woolsey
Sensenbrenner	Tauzin	Wynn
Serrano	Taylor (MS)	Young (AK)
Sessions	Taylor (NC)	Young (FL)
Shadegg	Thomas	

NOT VOTING—32

Bonilla	Houghton	Millender-McDonald
Brown (FL)	Hunter	Payne
Cannon	Jackson-Lee (TX)	Rangel
Cardin	Jefferson	Rogers
Conyers	Johnson (WI)	Royce
Cooksey	Johnson, E. B.	Sherman
Crapo	Markey	Smith (OR)
Engel	McDade	Smith (TX)
Ford	McDermott	Waters
Gonzalez	McNulty	Yates
Harman		
Hefner		

□ 2003

Messrs. BOUCHER, CUMMINGS, OBERSTAR, and STARK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SHERMAN. Mr. Chairman, during roll call vote number 77 on the Goodling Amendment to H.R. 3246 I was unavoidably detained. Had I been present, I would have voted yes.

The CHAIRMAN. No other amendment being in order under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIAHRT) having assumed the chair, Mr. MCCOLLUM, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, pursuant to House Resolution 393, he reported

the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 200, not voting 29, as follows:

[Roll No. 78]

AYES—202

Aderholt	Foley	McCollum
Archer	Fossella	McCrery
Armey	Fowler	McInnis
Bachus	Fox	McIntosh
Baker	Frelinghuysen	McIntyre
Ballenger	Gallegly	McKeon
Barr	Ganske	Mica
Barrett (NE)	Gekas	Miller (FL)
Bartlett	Gibbons	Moran (KS)
Barton	Gilchrest	Morella
Bass	Gillmor	Myrick
Bateman	Gingrich	Nethercutt
Bereuter	Goode	Neumann
Bilbray	Goodlatte	Ney
Bilirakis	Goodling	Northup
Bliley	Goss	Norwood
Blunt	Graham	Nussle
Boehner	Granger	Oxley
Boyd	Greenwood	Packard
Brady	Gutknecht	Pappas
Bryant	Hall (TX)	Parker
Bunning	Hansen	Paul
Burr	Hastert	Paxon
Burton	Hastings (WA)	Pease
Buyer	Hayworth	Peterson (PA)
Callahan	Hefley	Petri
Calvert	Herger	Pickering
Camp	Hill	Pitts
Canady	Hilleary	Pombo
Castle	Hobson	Porter
Chabot	Hoekstra	Portman
Chambliss	Horn	Pryce (OH)
Chenoweth	Hostettler	Radanovich
Christensen	Hulshof	Ramstad
Coble	Hunter	Redmond
Coburn	Hutchinson	Regula
Collins	Hyde	Riggs
Combest	Inglis	Riley
Cook	Istook	Rogan
Cox	Jenkins	Rohrabacher
Crane	John	Roukema
Cubin	Johnson, Sam	Ryun
Cunningham	Jones	Salmon
Davis (VA)	Kasich	Sanford
Deal	Kim	Saxton
DeLay	Kingston	Scarborough
Dickey	Klug	Schaefer, Dan
Doolittle	Knollenberg	Schaffer, Bob
Dreier	Kolbe	Sensenbrenner
Duncan	Largent	Sessions
Dunn	Latham	Shadegg
Ehlers	Leach	Shaw
Ehrlich	Lewis (CA)	Shuster
Emerson	Lewis (KY)	Skeen
English	Linder	Smith (MI)
Ensign	Livingston	Smith (OR)
Everett	LoBiondo	Smith, Linda
Ewing	Lucas	Snowbarger
Fawell	Manzullo	Souder
Spence	Taylor (NC)	Watts (OK)
Stearns	Thomas	Weldon (FL)
Stenholm	Thornberry	White
Stump	Thune	Whitfield
Sununu	Tiahrt	Wicker
Talent	Upton	Wolf
Tanner	Walsh	Young (FL)
Tauzin	Wamp	
Taylor (MS)	Watkins	

NOES—200

Abercrombie	Hall (OH)	Olver
Ackerman	Hamilton	Ortiz
Allen	Hastings (FL)	Owens
Andrews	Hefner	Pallone
Baesler	Hilliard	Pascrell
Baldacci	Hinchey	Pastor
Barcia	Hinojosa	Pelosi
Barrett (WI)	Holden	Peterson (MN)
Becerra	Hooley	Pickett
Bentsen	Hoyer	Pomeroy
Berman	Jackson (IL)	Poshard
Berry	Johnson (CT)	Price (NC)
Bishop	Johnson (WI)	Quinn
Blagojevich	Kanjorski	Rahall
Blumenauer	Kaptur	Reyes
Boehlert	Kelly	Rivers
Bonior	Kennedy (MA)	Rodriguez
Borski	Kennedy (RI)	Roemer
Boswell	Kennelly	Rothman
Boucher	Kildee	Roybal-Allard
Brown (CA)	Kilpatrick	Rush
Brown (OH)	Kind (WI)	Sabo
Campbell	King (NY)	Sanchez
Capps	Kleczka	Sanders
Carson	Klink	Sandlin
Clay	Kucinich	Sawyer
Clayton	LaFalce	Schumer
Clement	LaHood	Scott
Clyburn	Lampson	Serrano
Condit	Lantos	Shays
Costello	LaTourette	Sherman
Coyne	Lazio	Shimkus
Cramer	Levin	Sisisky
Cummings	Lewis (GA)	Skaggs
Danner	Lipinski	Skelton
Davis (FL)	Lofgren	Slaughter
Davis (IL)	Lowey	Smith (NJ)
DeFazio	Luther	Smith, Adam
DeGette	Maloney (CT)	Snyder
Delahunt	Maloney (NY)	Spratt
DeLauro	Manton	Stabenow
Deutsch	Markey	Stark
Diaz-Balart	Martinez	Stokes
Dicks	Mascara	Strickland
Dingell	Matsui	Stupak
Dixon	McCarthy (MO)	Tauscher
Doggett	McCarthy (NY)	Thompson
Dooley	McGovern	Thurman
Doyle	McHale	Tierney
Edwards	McHugh	Torres
Eshoo	McKinney	Towns
Etheridge	Meehan	Traficant
Evans	Meek (FL)	Turner
Farr	Meeks (NY)	Velázquez
Fattah	Menendez	Vento
Fazio	Metcalf	Visclosky
Filner	Miller (CA)	Watt (NC)
Forbes	Minge	Waxman
Frank (MA)	Mink	Weldon (PA)
Franks (NJ)	Moakley	Weller
Frost	Mollohan	Wexler
Furse	Moran (VA)	Weygand
Gejdenson	Murtha	Wise
Gephardt	Nadler	Woolsey
Gordon	Neal	Wynn
Green	Oberstar	Young (AK)
Gutierrez	Obey	

NOT VOTING—29

Bonilla	Harman	Payne
Brown (FL)	Houghton	Rangel
Cannon	Jackson-Lee (TX)	Rogers
Cardin	Jefferson	Ros-Lehtinen
Conyers	Johnson, E. B.	Royce
Cooksey	McDade	Smith (TX)
Crapo	McDermott	Solomon
Engel	McNulty	Waters
Ford	Millender-McDonald	Yates
Gilman		
Gonzalez		

□ 2022

The Clerk announced the following pair on this vote:

Mr. Bonilla for, with Mr. McDade against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, during the final vote on H.R. 3246 (Rollcall 78) I was in the Chamber and attempted to vote, but the Speaker closed the vote before I could cast my vote. I attempted to secure the attention of the Chair but was unsuccessful. Had I been allowed to vote I would have voted "no."

GENERAL LEAVE

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3246, the bill just passed.

The SPEAKER pro tempore (Mr. TIAHRT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2515, FOREST RECOVERY AND PROTECTION ACT OF 1998, AND LIMITATION OF TIME FOR AMENDMENT PROCESS

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that House Resolution 394, the rule, be considered as adopted, and that during consideration of H.R. 2515, the forestry bill, in the Committee of the Whole, pursuant to that resolution, 1, that the amendment in the nature of a substitute made in order as original text be considered as read; and 2, after general debate, the bill be considered for amendment under the 5-minute rule for a period not to extend beyond 1:30 p.m. on Friday, March 27, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The text of House Resolution 394 is as follows:

H. RES. 394

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2515) to address the declining health of forests on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests and their resources, and for other purposes. The first reading of the bill shall be

dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Agriculture now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 3530. Each section of that amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or clause 5(a) of rule XXI are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2021

Mr. NETHERCUTT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor to H.R. 2021.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR AUTHORIZATION TO SIGN AND SUBMIT REQUESTS TO ADD COSPONSORS TO H.R. 2009

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent that I may be authorized to sign and submit requests to add cosponsors to the bill, H.R. 2009.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

□ 2030

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I would like the RECORD to reflect that I would have voted "no" on H.R. 3246, but the gavel was pounded before I registered my vote. I tried to get the Chair's attention, but I was not able to do so.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HULSOF). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS MUST REFORM THE NATION'S TRANSPORTATION SYSTEM AND REGAIN THE PUBLIC'S TRUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. COBURN) is recognized for 5 minutes.

Mr. COBURN. Mr. Speaker, I rise today to discuss a matter of grave concern to me and many of my colleagues. I am in great hope that the American public is paying attention to what I am about to say.

Mr. Speaker, I am going to talk about transportation dollars and budget authority and busting the budget. The transportation dollars that are being handled in this country are being handled in a way that I believe does not support the best interests of the American public nor support the quality of this institution.

Next week the House will be asked to vote on a transportation bill that could cost the American taxpayers $216 billion, money they have already paid into a taxpayers' fund. This will make this bill one of the largest public works bills in our history. The chairman of the Committee on the Budget has called the bill an "abomination" because it will bust the budget by at least $26 billion. That is $26 billion that we are going to pass on to our next generation. We have the assurances that this will be paid for in conference. Anybody that has been here for any length of time knows that that is not much in terms of assurance.

This Congress has made important steps toward reversing the fiscal irresponsibility of its recent past, and we must stay that course. We must not lose our bearings when we are so close to making significant strides towards reducing our $5.5 trillion debt.

I want to explain to the American people how transportation dollars are divided up in this country and where that process is corrupt and needs to be reformed. Every time Americans fill their cars up with gas, a few cents go towards a massive Federal transportation fund. Congress has set up a committee to divide these funds. Each member of this committee exercises enormous influence over where these dollars are spent.

Every Member of Congress has the authority to request special projects, based on the needs of their district and the recommendations of their respective State's Department of Transportation. Money should be awarded to these projects based solely on their merit, but this is often not the case, as anyone who has observed this process recently will admit.

Instead of dividing transportation money according to the merit of projects, money is divided based on political favors and political expediency. Stories in today's Associated Press will help explain what I mean.

The AP reports North Dakota and South Dakota are similar in size and population, but when it comes to the House's highway bill, they are nothing alike. The bill earmarks $60 million in special projects for South Dakota, six times as much as its neighbor to the north.

Mr. Speaker, let me ask my colleagues and the American public a question. Is it likely that the projects in South Dakota have six times more merit as the projects in North Dakota, or is there some political motivation involved?

In Minnesota, one district out of the eight congressional districts in that State received $80 million of the $140 million earmarked for projects in that State. Does that one district have such a disproportionate need for highway funds, or is there some other reason for this imbalance in funding? Is it a coincidence that an inordinately high proportion of transportation funds are targeted to districts represented by members of the Committee on Transportation and Infrastructure? Is it a coincidence that this bill sends outrageous sums of money to members in both parties who will face difficult reelections?

Also, if my colleagues examine this bill, they will find striking disparities in the amount of money one State receives over another, regardless of what they put into the trust fund.

Mr. Speaker, I invite the public and the press to examine this bill and decide for themselves whether this money is being divided according to merit or to politics. This bill includes over 1,400 special projects. In 1987, President Reagan vetoed a bill that had 150 such projects, which is just one-tenth the number in this bill.

We should ask ourselves what the typical American thinks of this process. I think we know. The public finds that it is sick, dirty, and corrupt, and a throwback to the system of "good ol' boys" that we came here in 1994 to end. We have $5.5 trillion worth of debt in this country. We cannot afford to play games with the public's money and more importantly we cannot afford to play games with the public's trust.

That is why I and several of my colleagues turned down funds in this year's highway transportation bill. I made a statement to the press that the committee had approached me in hopes of buying my vote. I stand by that statement.

But this is not an issue of one Member against another Member or one Member against a committee. This issue is about whether Congress will continue to look the other way on a system that encourages Members to do the inappropriate and wrong things. This system not only wastes the public's money, it degrades the public's trust in this institution. It is difficult to put a dollar value on trust because it is invaluable. As legislators, the public's trust is our most precious and scarce resource. Once that trust is lost, we all know it is hard to earn it back.

If this Congress and the class of 1994 is known for one thing, I hope it is for our unwavering crusade to regain the public trust. Without that trust, we are governed by suspicion, cynicism, and our society cannot be sustained for long with that foundation.

We can blame the spread of this acidic public cynicism on a variety of familiar culprits: the liberal media, a debased entertainment industry, voter apathy, and Presidential scandal. All of these factors have played a role, but we are wise to first seek improvement among the group we can most directly effect—ourselves. The Congress has lost the confidence of the public, and it is our duty to do what we can to win it back.

The typical American believes politicians are more concerned about preserving their position than the long-term consequences of their policies, and this system perpetuates that perception.

Reforming this system will be an important step in that process. We should let the states make decisions about transportation funding and get it out the hands of Washington.

We must do the right thing for the country on this issue before we throw away more of the public's money and trust.

Today, I believe the greatest temptation facing legislators in our party is to postpone doing the right thing for the country until our position as the majority party is more secure. If we make this our practice, with every compromise, with every sellout, we will drain the lifeblood from the movement that brought us into Congress. Our souls will depart from us and we will become the hollow politicians the public expects us to be, but sent here to replace.

I urge my colleagues to do what is necessary to reform this system when the House takes up the transportation bill next week.

YOUTH FIREARM VIOLENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON. Mr. Speaker, 2 days the ago the Nation was shocked when two adolescent boys opened fire on the students at Westside Middle School in Jonesboro, Arkansas, which killed four students and a teacher. Eleven others were wounded. One of the boys had told his friends that he had a lot of killing to do, according to the police.

Teacher Shannon Wright died trying to shield another student from the deadly fire. She was 32, the mother of a 2½ year old son. The police found a cache of guns at the site.

Just yesterday, a 14-year-old boy in Daly City, California tried to shoot his school principal, Matteo Rizzo, who had disciplined the boy last week for fighting with a schoolmate. The shot fortunately missed Rizzo and lodged in the wall behind him.

Today I have had a report from my home district of Indianapolis that a 7-year-old boy brought a loaded gun to school in his knapsack. When confronted by teachers, the boy said he had been threatened and brought the gun to school for his protection.

Last December, a boy opened fire on a student prayer circle at a high school in West Paducah, Kentucky, killing three students and wounding five. Two months earlier, two students died in a shooting in Pearl, Mississippi. And in December, a student wounded two students when he opened fire in a school in Stamps, Arkansas.

Mr. Speaker, we are facing a crisis when young kids can get guns easily and take them to school. Marion County, Indiana, a part of which I represent, has seen 115 children die by firearms in the last 5 years. Of these deaths, 33 were from handguns. Statewide in Indiana, some 40 children 19 and younger committed suicide with firearms in 1995. Four of these suicides were by children aged 10 to 14. Eighteen children died from firearm accidents in 1995.

Nationwide, more than 1,000 children aged 14 and younger committed suicide with firearms from 1986 to 1992, according to the Center to Prevent Handgun Violence. More than 1,700 were killed in accidents. An average of 14 teenagers and children are killed by guns each day.

Children committing acts of violence are not the only problem we have with children and guns. Adults carelessly leave guns around children and can be just as dangerous. Just this past Sunday in Indianapolis, a 3-year-old boy accidentally shot and critically wounded his mother's boyfriend. This man allowed a 3-year-old to hold his 9-millimeter handgun. Apparently the gun owner removed the ammunition clip but failed to remove the one round in the firing chamber. The boy pulled the trigger and the bullet struck the owner in the abdomen.

Two years ago, Michelle Miller of Indianapolis lost her 3-year-old son when a boyfriend let the child play with his gun. The gun went off, killing the child. As part of her sentence, Michelle is telling her story in public and urging families with guns to keep the weapons away from their children.

Mr. Speaker, what are 3-year-olds doing with guns? The Indianapolis Police Department responded to the most recent incident saying that gun owners should keep their weapons locked and out of the reach of children.

According to the Coalition to Stop Gun Violence, half of all gun owners keep their firearms in an unlocked area. One fourth keep their firearms unlocked and loaded, leaving their guns very vulnerable to threat, accidental shooting, suicides, and homicides.

Fortunately, we in Congress can do something to increase the safety of guns that are kept in homes and to keep guns out of the hands of children. H.R. 1047 that requires that handguns come equipped with safety locks is one such measure. A safety lock fits over the trigger of the gun, disabling the weapon until it is removed. With safety locks, parents would be able to secure guns and prevent their use either by their children or someone who steals their guns. We cannot force parents to use safety locks, but we can make sure that they are provided with a safety lock which every gun should carry.

That bill that I referenced is a simple, commonsense solution that we should enact immediately, and that is to require that trigger locks be placed on unattended guns so that our children cannot just use them wantonly. Perhaps we could look at ways to lock guns when they are manufactured, and require manufacturers to implement trigger lock devices in the manufacturing of firearms. And yes, I know that gun lobbies across this country would be opposed to this, but we as Members of Congress must step up very boldly and responsibly and act accordingly to the sentiments of this country and to the protection of our children.

□ 2045

EXCHANGE OF SPECIAL ORDER TIME

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent to take the time previously allotted to the gentleman from Florida (Mr. MICA).

The SPEAKER pro tempore (Mr. HULSHOF). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ISTEA BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to speak about a very important topic to my colleagues tonight,

and that deals with the very important transportation bill.

The fact is that this new transportation bill is one that has been worked out on both sides of the aisle. It is paid for out of Transportation Trust Fund money. It is paid for each time the motorists go to pay for their gasoline. Those funds are being used and generated back to protect the public.

This transportation bill is a good one. It means jobs across America. It means improved road safety. It means new and improved public transit systems. It means improved air quality because more people are riding on the trains, subways, and buses. This ISTEA bill is a bipartisan piece of legislation.

The gentleman from Pennsylvania (Mr. SHUSTER), the chairman, and the gentleman from Minnesota (Mr. OBERSTAR), the ranking member, have worked over time with their staffs to make sure it is a positive piece of legislation in the fact it is fair to all States in its allocation and support of our Nation's governors, along with hundreds of other public service organizations.

We have reduced waste in this Congress. In the 104th Congress, we reduced spending by at least $53 billion. We continue reducing waste in the government by our own reexamination through the Results Caucus through our sunset procedures.

We have several bills, Mr. Speaker. As I am sure my colleagues are aware, we have bills that will make sure that our legislation for each agency we are going through with a fine-tooth comb to make sure that where agencies are duplicating what others are doing, whether it be State government or private sector, we are going to downsize, we are going to privatize, we are going to consolidate or eliminate.

So we have done the job, working with Citizens Against Government Waste, to reduce those kinds of expenditures that previous Congresses may have approved, but this Congress does not approve. But transportation, that is an investment for our children, for our families, for the public.

Many people do not own cars so they rely on public transit. Much of this bill deals with public transit and how to make sure those who do not drive and cannot afford a car can still go to work and still go to the doctor and still do the necessities of life.

I look forward to bipartisan support not only in the House, but in the Senate, so a bipartisan bill can be passed and sent to the President for signature.

RESTORATION OF THE FARM CREDIT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, several of my colleagues have introduced a bill called the Restoration of the Farm Credit bill. I want to report to the House today that the Senate, with their supplemental spending, also adopted that bill, understanding the emergency nature of farmers needing credit.

In the 1996 farm bill meant that indeed credit had been denied to farmers who might have had a blemish on their record. For whatever cause, whether it is due to a disaster, whether it is due to a medical cause, whether it is due to foreclosure, whether it is due to discrimination, any of these reasons, if a farmer had had one blemish on his record, he was barred or she was barred from there on out to borrow any monies from the USDA, whether that is a guaranteed loan or direct loan. So what it meant was one strike and farmers had no recourse whatsoever.

Mr. Speaker, one of the reasons small farmers are going out of business so fast is because they do not have access to credit. Certainly, when the United States Government is lending money to farmers, usually this is the last resort, the last opportunity farmers have is to go to their government to borrow money. So when the government says, no longer are we interested in small farmers and small ranchers, that means consumers and farmers, all who depend on having small farmers and ranchers participate in farming, are put at risk. It means the quality of food is at risk. It means the low food prices that we enjoy are at risk.

So I am happy to say that the Senate, the other body, was able to see the wisdom of that. I hope, as we have the opportunity next week, that we will have the same opportunity to see the emergency nature of responding to the critical credit needs of small farmers and ranchers.

Mr. Speaker, I commend my colleagues to consider that when they have the opportunity.

GOP NATIONAL SALES TAX IS BAD IDEA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PALLONE. Mr. Speaker, this evening the Democrats plan to discuss the Republican plan to abolish the Tax Code and replace it with either a flat tax or a sales tax.

I yield at this point to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman from New Jersey and I also thank my other colleagues who were on the floor and those who are coming tonight to join in this special order to talk about the need to cut taxes for working middle-class families and to reveal the true cost, as my colleague from New Jersey pointed out, the true cost of a dangerous Republican proposal to impose a national sales tax on the American people.

We have heard quite a bit lately from our Republican colleagues about tax reform. But behind the rhetoric and the calls to "scrap the code," that mantra, if you will, repeated over and over again to scrap the code, behind the rhetoric of that phrase lie some very radical and some dangerous proposals that will actually raise taxes on working families and cut taxes for the wealthiest 1 percent of taxpayers.

I think we all agree that that is not reform, that is not what we are about. Abolishing the Tax Code, replacing it with a sales tax is one of those kinds of easy-listening proposals that Republicans are famous for. If you will, it is the legislative equivalent of elevator music; we might find ourselves humming along. But when we snap out of it, we realize that we hate the song. We have all had this happen to us.

The Republican national sales tax is a very bad idea. My Republican colleagues argue that a national sales tax would be simple and it would be fair. But take a closer look at it and we find that there is nothing simple or fair about it.

A national sales tax is not simple. In fact, several renowned economists have declared a national sales tax as unworkable. Even the conservative Wall Street Journal has panned the proposal and highlighted concerns about administration and about enforcement.

A national sales tax is not fair. The Brookings Institute says that of the GOP sales tax, "The sales tax would raise burdens on low- and middle-income households and sharply cut taxes on the top 1 percent of taxpayers." That is not fair.

The GOP national sales tax proposals call for replacing all individual and corporate taxes with a 23 percent sales tax. But there is a new analysis by Citizens for Tax Justice that shows that the actual rate would be at least 30 percent. That means the American people would pay 30 percent more for everything, 30 percent more for everything. They would pay a 30 percent tax every time they opened their wallet. Talk about being nickeled and dimed to death.

What does that mean to the average middle-class family? Let us take a look. This week U.S. News and World Report did a cover story on the cost of raising a child in today's world. It is an astounding piece. According to U.S. News, for a child born in 1997, a middle-class family will spend $1.4 million to raise that child to age 18. This is the cover of U.S. News and World Report this week, "The Real Cost of Raising Kids." Would my colleagues believe it is $1.4 million apiece? Put a 30 percent tax on top of that and we are looking

at life for working families under a GOP national sales tax.

Let us take a look at a few examples of what a 30 percent tax means in real life. This is a box of diapers. It costs $23 today. Add a 30 percent GOP tax of $6.90 and we have the GOP price of $29.90. Let us take a look at what it costs for a pair of children's shoes. They cost about $20. Add the GOP sales tax, which is about $6, and we are paying $26 for the same pair of shoes.

Let us take a look at a box of cereal, and we all want to give our kids cereal. We want to make sure that they are healthy. The price is $2.99 today. The GOP tax of an additional 90 cents would bring the price of a box of Kellogg's Raisin Bran, Two Scoops of Raisin Bran here, up to $3.89.

Let us take a look at a loaf of natural grain bread. Price $2.59. GOP tax, 78 cents. GOP price, $3.37.

And what about baby food? Price 45 cents. GOP tax, 14 cents. GOP price, 59 cents.

This gives my colleagues some idea of the reality of a national sales tax and a 30 percent increase in that tax. Of course, we all know that children's shoes get more and more expensive. We saw here. So if they take a look at what happens as they grow up and they have a child that is a teenager, his or her shoes could cost $120. Add a 30 percent sales tax, and they are looking at a $36 tax, bringing the cost to $156. It is no wonder that, according to U.S. News and World Report, the cost of clothing a middle-class kid to age 18 costs $22,063.

My colleagues will see on this chart that the GOP sales tax would increase that cost significantly. I think it is important to take a look at this chart. This is the GOP 30 percent sales tax list for working families, the cost of raising a child.

If my colleagues will bear with me, housing, today's cost is $97,549. The GOP 30 percent sales tax would add $29,000. We are looking at a price tag from the GOP of $126,000.

Food, $54,795. Add to that the 30 percent sales tax of $16,400. We are talking about $71,000 to provide food for our kids.

Transportation costs, $46,000. Add $13,000 from the GOP tax, bringing it up to $60,000 to provide transportation for their child.

Clothing, $22,000; an additional $6,600, $28,600 in providing clothing for their child.

Health care, $20,700; $6,200 additional from the GOP tax; 26,000, almost $27,000 to provide health care for their child.

Day-care, $25,600; an additional $7,700; $33,300 to provide day-care for their child while they are working and trying to make ends meet and scrambling every month to pay the bills.

Miscellaneous costs, whatever it costs to raise kids, and we know that they are not all set and pat, we never know what is going to come up, $33-, almost $34,000. An additional $10,000 is what we would have to pay because of the 30 percent sales tax that the Republicans are talking about, bringing the total up to $44,000.

The cost of a college education, every family wants to be able to send their children to college if they can afford to do that. And if a child can get into a college today, it is $158,000 to send a child to college.

□ 2100

You would have to add a 30 percent sales tax to that, another $47,000, making it $205,000 to get your kid to school. What are working families in our country to do today? It is incredible what they are talking about with this 30 percent sales tax. That is what the Republican sales tax would mean in real terms to real families in this country.

Let me just take one other group, because there is one group that would be hit harder than others by the Republican sales tax, and that is the senior citizens in this country. Senior citizens would gain nothing, nothing from the elimination of income taxes since most are retired and many pay no income tax. But a 30 percent sales tax would hit seniors on a fixed income right between the eyes. That is where it hits these folks. One of the most burdensome expenses that is faced by senior citizens is the price of medication. All of us when we go to senior centers, when we go to senior housing, that is what we hear about, is what they are paying for medication and for their prescription drugs which many of them need to lead productive and healthy lives. We have taken a look at five of the most common medications used by seniors and looked at how the 30 percent Republican sales tax would impact those prices. Bear with me. These are monthly costs. For blood pressure medication, $110 now, the sales tax would add an additional $33, GOP price tag, $143 a month for blood pressure medication. Arthritis, it is now $75 a month for medication, add another $22.50, bringing that cost to almost $100 a month for senior citizens, again people on fixed incomes. Diabetes, $125 today, $37.50 through an additional 30 percent sales tax, bringing the total cost per month to $162.50. It is incredible what we would be doing to senior citizens in this country. Heart disease, $90, $27 additional in sales tax, $117 is the final cost to them per month for again seniors, elderly, people who are on fixed incomes. Our mothers, our fathers, paying this cost per month. An inhaler, $80 a month today, the tax would add another $24, bringing the cost per month to senior citizens to $104. This is really incredible and outrageous of what they would add to the cost of people who are frightened to death that these later years, instead of being the golden years, are the lead years, when they are most vulnerable and we are going to add these kinds of costs to medications that they need.

We need to have a real debate about reforming our tax system. I believe everybody here believes that. We need to cut taxes for working middle class families. We are for cutting taxes for working middle class families. This proposal moves us in the wrong direction. In fact, the Brookings Institute study of the GOP sales tax found that taxes would rise for households in the bottom 90 percent of the income distribution while households in the top 1 percent would receive an average tax cut of over $75,000. Millionaires get tax breaks and working families and senior citizens will be paying more. That is not reform. That is just so blatantly unfair to working families today.

Let me open the conversation to my colleagues. I am sorry I took so long, I truly am, but it is important to put this in context. We need to be doing this every single day and every single night in this body to make the people of this country understand what our Republican colleagues and the Republican majority are talking about with a national sales tax. A bit later we can talk about some of the things that the Democrats have done and would like to do to cut taxes for working families. Let me yield now to the gentleman from Michigan (Mr. BONIOR), the whip of this House.

Mr. BONIOR. I thank my colleague for her comments and for laying this out. I tell the gentleman from New Jersey (Mr. PALLONE) and the gentlewoman from Michigan (Ms. STABENOW), who were here before me, that I will not take a lot of time but I thank them for being here and for participating in these remarks this evening. I think the gentlewoman has really demonstrated quite well and quite vividly the inequity here with the GOP 30 percent sales tax hike, which hits particularly hard those on fixed incomes, our senior citizens, as she has so well demonstrated, with the cost of medication for those who are suffering from blood pressure, arthritis, diabetes, heart disease or those who have lung problems.

This is really a loony idea, this whole sales tax thing. There is no other way to describe raising the sales tax 30 percent on American working men and women in this country, particularly those on a fixed income. I think the figure that the gentlewoman from Connecticut mentioned earlier with respect to the Brookings Institute and Mr. Gale's study is very interesting. William Gale of the Brookings Institute, a wonderful scholar, said taxes would rise for households in the bottom 90 percent. That means 90 percent of those people who are paying taxes today in America would have their taxes go up as a result of this. The top 10 percent would probably do okay. The top 1 percent would get about a $75,000

a year tax reduction out of this plan. This is so skewed, so regressive, so top heavy to the wealthy that it is sad. It is very tragic and it is very sad. The gentlewoman has given some very wonderful examples there. I liked the raisin bran particularly. I like raisin bran. I eat it in the morning. What else has she got there? Some bread,

Ms. DELAURO. Natural grain. We have children's shoes. Kids grow out of shoes very, very quickly.

Mr. BONIOR. In my district and in the district of the gentlewoman from Michigan (Ms. STABENOW), we have automobiles. It is a big thing in our districts. Under the plan, an economy car that now costs about $12,000, there is another example here, I am giving one that costs 12, would cost about $14,600. Under the proposal that the gentlewoman from Michigan has, you take a family car priced at $21,000, the GOP tax is about $6,500 and that price goes up to $28,000, which is out of the range of many, many families today. In addition to that, you are talking about a modest home that would cost $100,000 today, you add $30,000 onto it, you are up to $130,000 with a home purchase with this tax.

I would like to just, if I could, for one second move to another, this is loony tune number two, this is the flat rate tax that my colleagues on the other side of the aisle seem to be in love with. Let us just take a look at what this does.

This is the Armey flat tax. It is going to raise taxes on working families. The green marker right here is what is paid percentwise in taxes now for people who make 25, 50, 100, 250,000 and 1 million a year. Under the Armey tax plan, flat tax plan, those who make $25,000 a year or more will have this much of a jump, from roughly less than 4 percent almost up to 12 percent for their tax increase. Those who make $50,000 a year will have a tax increase, roughly about 12.5 percent, their tax increase will go up to maybe 16, 17 percent. Those who make $100,000 a year will even have a tax increase under the Armey plan, not very much, but about a 1 percent increase. But those who make a quarter of a million dollars a year, you get a tax cut and a big one. If you make a million bucks a year, you get an even bigger tax cut under the Armey flat tax plan. Basically what this plan does, it raises taxes substantially for the middle income people, between $25,000 and $100,000 a year, substantially, and then it gives a huge bonus to the very people at the top, those who need it the least, turning over the whole concept of progressive taxes.

I just wanted to come to the floor today to thank my friends for their concern on this issue and to raise some of these concerns with the American people today. Tax day is coming up, in terms of our income taxes. They ought to know that there are some very strange proposals that are being taken seriously out there and they ought to be leery of them and look at them very carefully.

Ms. DELAURO. Let me just ask my colleague from Michigan, with the Armey flat tax, what happens to unearned income?

Mr. BONIOR. Unearned income, under the Armey proposal the last time I saw it, is not taxed.

Ms. DELAURO. These are stocks and bonds.

Mr. BONIOR. It is not taxed. If you make your money off the stock market or off of bonds, you do not have to pay a tax on that. That has got to be made up somewhere, so we can pay for the roads and for the military and for our national parks and the other things we do. Of course that is going to be taken out by who, well, these people here, the 25, the 100,000, here they go, up the red markers go, more taxes.

This is a huge tax shift, from working people to the wealthiest people in our society. What is so disturbing about this is that when we look at what happened to incomes over the last 20 years, it is the top 25, 20 percent in our country that have done extremely well. But everybody else below that have either stayed level in terms of their income ability, earnings, or they have fallen. Of course those at the bottom have fallen tremendously, over 25, 30 percent over the last decade or so.

The whole progressivity of what we are about as a party in terms of helping working, middle income families who are squeezed every day is being turned upside down by these regressive sales tax and flat tax proposals that the GOP is offering.

Mr. PALLONE. If I could point out another thing that is very unclear, it seems to me, and maybe the gentleman would respond to that right now, because he mentioned sale of a home, which is included in this proposal for the sales tax. We have people, homeowners that rely very heavily on mortgage interest deductions and also in my State, and I think many States, you can also deduct your local property taxes from your income tax. It is not at all clear to me that this would continue.

Mr. BONIOR. It would not under the Armey plan. Maybe the gentlewoman from Michigan who really knows these tax issues extremely well might want to comment on that.

Ms. STABENOW. If I might, just to add to what really is the burden under these proposals, not only would we lose the home mortgage deduction but on top of the price, and to continue with the charts, if we are looking at a $155,000 house, not only would the GOP price be $201,000, but under the sales tax proposal, this also taxes the insurance premium you pay every month, it taxes the electric bill that you have in your house, it taxes all services. I wanted to add that on top of what you have talked about, which is so important, in health care and so important as it relates to manufactured goods and so on, we are talking about every time we do something. So not only for the blood pressure medicine or the arthritis medicine, it is going to the doctor that will add 30 percent. We are now going to make doctors sales tax collectors, 30 percent. They have to now collect it.

We will be creating a whole new group of tax collectors, shifting the burden on to small businesspeople and professionals. We will see a wide range of services that will now be taxed. If you go to the barber shop, add 30 percent, if you go to the dry cleaner, add 30 percent, if you come home to your house, not only is your house payment up 30 percent but again everything related to your home is up 30 percent. We are talking about a use tax literally on everything.

Let me mention a couple of other things that I think are very critical to this. As we look at higher education, we have all worked very hard to provide tax breaks so that more people can go to college, more people can go back to school, get job training. Tuition and fees are exempt from the retail sales tax, but room and board is not. My daughter starts school at Michigan State University next fall. She will live in the dorm. Under this proposal, I would be paying 30 percent more for her dorm room, 30 percent more for her books, 30 percent more for her food. If she lived off campus, 30 percent more for her rent. So we are not just talking about goods, we are talking about literally everything that we do.

Let me add something else, because there are several other things, very interesting, in this proposal. This proposal eliminates a number of different taxes. It eliminates all of the excise taxes on alcohol and tobacco, right at a time when we are saying that we ought to be doing more to discourage, particularly children, from smoking.

□ 2115

Mr. BONIOR. So you are saying that this eliminates the taxes on tobacco and on alcohol, and it raises by this amount the taxes on prescription drugs for blood pressure and arthritis and diabetes and heart disease, and all of that it raises it to a huge 30 percent.

Ms. STABENOW. Absolutely. Which makes no sense whatsoever.

Ms. DELAURO. I think your point, and please, you have got some wonderful data and personal experiences here, but the point you were making about we are in the midst here of trying to reduce smoking amongst youngsters, kids.

Ms. STABENOW. That is correct.

Ms. DELAURO. Middle school kids. And we found, all the studies have

found that you add $1.50 a pack, it reduces the smoking. So, really, we are running at cross purposes here.

Ms. STABENOW. It is really crazy.

Another thing that we found today in analyzing this bill is that it also eliminates the funding for the highway trust fund.

Now, this is particularly crazy, because we are in the process right now of passing a very important bill, one that we fought for hard in Michigan to be able to increase our fair share. We have not in Michigan over the years received our fair share, and we worked very hard to do that. But in the middle of this, it eliminates a wide variety of excise taxes and trust fund taxes, one being the highway trust fund.

So in so many ways, this particular bill makes no sense. It eliminates those taxes, it raises taxes on seniors, middle-income people. I do not know where we get the dollars then for the highway trust fund; I think that is an important question to ask.

Mr. PALLONE. Is it not also true, the way I understand this sales tax, this national sales tax, that the 30 percent sales tax will also be attached to goods and services that local and State governments purchase? So is it not likely that my local property taxes or even my local—you know, my State taxes are also going to go up another 30 percent because of the fact that this national sales tax is added.

Ms. STABENOW. The other part that I might add that also adds on top of that, my city of Lansing will pay, for instance, 30 percent more for a police car. But this proposal also counts the wages of public employees as taxable, as value in terms of the sales tax. So the police officer in that car will pay 30 percent more on top of their wages. Either the local unit will pay it, or they will have a new income tax essentially on the wage of that police officer, that firefighter, that school teacher, because it taxes wages of government employees.

So we are going to see the taxes go up for people who serve us in local communities at the same time local units will have to pay 30 percent more to provide the service.

Mr. BONIOR. We are likely to see huge property tax increases in this because the local community, in order to afford the EMS, the ambulance, the police car and the wage structure that you just talked about, is going to have to come up with the resources, and that means property tax.

So this is a huge shift, not only from income, but it is a huge shift on sales tax and on property taxes as well.

Mr. PALLONE. You know, I have to say another thing too. It is very difficult for me to trust the fact that these other taxes are going to go away and this new sales tax is going to take their place. I mean we do not have a national sales tax, we never had a national sales tax, and I would be very reluctant to suggest that somehow now all of a sudden we are going to allow this door to open where this whole new Federal tax is going to come into play, but we are going to assume that the Federal income tax and all these other taxes somehow are going to disappear.

So it bothers me to think that a precedent is even being set of establishing a new type of national tax that we have not had before, because it opens up a Pandora's box essentially, and I would be fearful of that in itself, just based on historical precedence.

Ms. STABENOW. And I would add, I know that the small business community is extremely concerned about that issue. Today we have been debating various issues related to small business, paperwork reduction, and so on, but the reality is that every small business, professional or retailer or manufacturer, will now become a tax collector for that sales tax.

And on top of that, the National Retail Federation, and I would quote, based on the last session's bill, this bill was put in last session, it has been put in in the same form this session. So last session when this bill was in front of us, in front of the Congress, the National Retail Federation said between 1990 and 1994 the retail industry created 708,000 new jobs. A study by Nathan Associates shows that a national sales tax would destroy 200,000 retail jobs over a similar period. Adding these jobs lost with the 708,000 that will not be created, we could result in a net impact of almost 1 million fewer jobs. This is the National Retail Federation talking about small business loss because there will be fewer people buying at Christmastime.

What are the headlines we always read? What are the retail sales, the concern of retailers that people be purchasing? This cuts down on purchasing, it eliminates jobs.

So this is a job killer on top of everything else.

Mr. PALLONE. You know the amazing thing to me, because you started to talk about implementing this, is that we have—you know, I understand we do a fairly good job compared to what would happen with the sales tax in terms of collecting taxes now, but it seems to me you are talking about a 30 percent sales tax. You are going to get a lot of cheating, it is going to be difficult to enforce. And you know here the Republicans and Democrats alike have been talking about trying to reform the IRS, and we have actually made some significant changes because we do not want them becoming like a police force cracking down.

Would you not have to do a tremendous amount of enforcement? Would not the IRS become even more, have to have more money and a larger budget in order to enforce this kind of a sales tax?

Ms. STABENOW. And on top of that. I would just indicate that one of the things we have heard over and over again from the other side of the aisle is that we are going to eliminate the IRS under this proposal. We will eliminate the IRS as we know it. In the bill it transfers all the powers of the IRS to a new Sales Tax Bureau. So the name is gone, but the powers are still there. So then we have to talk about reforming a sales tax bill.

I mean what we need to be doing is talking about ways to reform the system for taxpayers, not just playing around with the name, and that is what this does. It changes the name, and then it drops down and requires every businessperson now and every person that has never collected sales tax, like a doctor, like attorneys, accountants, anyone in any kind of business on their own that is providing service, a plumber, electrician, and so on, they now become a tax collector and have to report that to the government.

So this is certainly anti-small business.

Ms. DELAURO. I think it also, as our colleague from New Jersey pointed out, I mean it leaves you turning everybody, if you will, into a tax collector. You then have an enormous amount of room here for error, for fraud, for all kinds of things that are happening. It seems to me to be a multiplier effect here.

And I think the point you made before, that Mr. PALLONE made before, about folks are so skeptical about, you know, what taxes are going away before you begin to impose another 30 percent on whatever they are doing. And you know the public is smart. They are getting hammered, especially working families are getting hammered, and they have no guarantee over what is going to go away ultimately and what is going to be imposed on them.

I think the point that you made is so—really about the wage earner, the government wage earner; what happens with the property tax, in addition to which what happens to your own wages. So you are going to get hammered several times over on tax issues when people are feeling choked today by taxes, working people are.

I know in my State of Connecticut, I mean that is the cry that I hear about all the time, you know, that wherever they turn, there is another tax that they are paying.

Ms. STABENOW. Well, they certainly will feel that even more under this particular proposal, and right at a time when we have just passed a series of tax cuts, $95 billion in tax cuts. We have been able to focus more cuts on education. The ability for people to be able to go to school, all of those things would be gone.

In Michigan when I was a State senator, I sponsored the State's largest

property tax cut. I am not interested in seeing this shift back and seeing property taxes go back up in the State of Michigan or in any State.

And so we are talking about those taxes that the average person pays. It is very easy for a wealthy individual to pick and choose what extra things they are going to buy, but the average person who is buying the house, sending the kids to school, needing to buy the clothes, the food, the car and so on, most of our income goes back out again in purchasing things, and that is why we see that shift that has been talked about onto middle-income and lower-income people, because we do not have as much discretionary income with which to decide whether or not to purchase items. Most of what we bring in, we are turning around and we are purchasing something with it.

Ms. DELAURO. I think it is worth pointing out what our colleague, Mr. BONIOR, talked about in terms of the flat tax proposal and people who are dealing in stocks and bonds and unearned income, and they are not paying any taxes on that. So what you are saying is that those people who work in the workplace day in and day out, they are the folks who are getting socked with the additional taxes, in addition to which you are going to take away with the mortgage deduction and some of the other tax relief, if you will, that middle-class families have been counting on, relying on, surviving on.

So you are really hitting them again twice. You know, they are picking up the slack for the folks who are holding the stocks and bonds, and then getting hammered again on things that they have counted on, that American dream and owning that home, and not being able to take the mortgage deduction.

Mr. BONIOR. I am flabbergasted. I do not know what more to say. I mean, I just cannot believe these things are being offered. It really is quite staggering. The problem is that we have unfortunately let them get away with portraying this as an innocent, wonderful thing for the American working family, when in fact it is just the opposite. And I think as it gets more exposure and people understand the regressivity and the inequities in it, I think it falls flat on its face, pardon the pun, and I do not think it is going anywhere.

I mean. It is just like this other proposal that my colleagues on the other side of the aisle have had now to do away with—have a drop-dead date on the Federal income tax. I think it is going—it just goes out of business in X year. Well, what does that do to the small business person or the businessperson in terms of planning, when they do not know what it is going to be substituted with; whether they are going to substitute it with this 30 percent sales tax; are they going to substitute it with this regressive flat tax? I think not.

When the American people figure this all out, they are not going to want either of these provisions. I think they want our present code to be leaner and trimmer and slimmer, and they want us to focus in on the things that the gentlewoman from Michigan mentioned: education, as we did in the last tax bill; they want us to focus in on tax credits for child care; they want us to be selective; and they want us to help average working families.

And I think that you could go overboard, and certainly these two proposals, the sales tax 30 percent increase and the flat tax by Mr. ARMEY, way overboard.

Ms. STABENOW. If I might also add that I do believe that the people I represent want to see a less complicated tax system, want to see it fairer. And I do, too. And they also want to see IRS reformed, which we passed in the House. It has not yet been taken up in the Senate, very important IRS reforms, changing the burden of proof from the taxpayer to the IRS in Tax Court, very significant changes that need to be moving quickly.

One of the things I am concerned about is that we have passed IRS reform in the House, it has not been taken up yet in the Senate, and that needs to happen, so that we can—we need to be calling on the majority in the Senate to be bringing that up, because while we talk about the proposals that do not make sense for middle-class families and working people, we do know that there needs to be change and that there needs to be positive things.

It is a question of where our values are, who it is that we believe needs to see tax cuts and tax reform. And my vote goes with small business people, family-owned farms, middle-class families working hard to make ends meet. Those are the folks who have not seen the same wage gains and have felt the burden, too much of the burden, on taxes.

And so those are the folks I want to see helped, not the kinds of proposals that have been submitted on the other side of the aisle that will just increase their taxes.

□ 2130

Mr. PALLONE. Maybe we could talk a little bit, because I know the gentlewoman from Connecticut mentioned about how Democrats have fought for tax relief, in the time that we have left this evening. We have been basically fighting for families that really need the relief, those with children who are trying to save for their kids' education and their own retirement. As the gentlewoman from Michigan mentioned, thanks in large part to Democratic efforts, the Federal tax burden on families in the middle-income distribution and below has fallen since 1984.

There is an analysis by the Treasury Department that found that the average Federal income tax rate for a median family of four in 1988 will only be 7.8 percent, down from 10.3 percent in 1984. This is the lowest income tax burden for a median family since 1966.

These historically low income tax rates are as a result of Democratic policies. If I can mention a few, some of them have already been alluded to, and that is the expansion of the earned income credit in 1993 that cut taxes for millions of families with children; the $500-per-child credit the Democrats ensured would be available to moderate-income families. In addition, Democrats proposed the HOPE education scholarship tax credit to help families afford postsecondary education for the children. And in 1988, Democrats had proposed expansion of the child care tax credit to increase the amount of the credit from 30 percent to 50 percent of expenses and make it available to more families. So Democrats also support efforts to reduce the marriage penalty.

We are trying to reduce and we have been successful in reducing the tax burden for families in middle-income families with children who have to pay for education expenses, who have to pay for child care expenses. These are the kinds of tax reforms and tax cuts that we need to continue with.

I am very proud of the fact that we, as Democrats, have emphasized those targeted tax credits rather than the kind of crazy schemes that we are hearing from the other side.

Mr. Speaker, I yield to the gentlewoman from Connecticut.

Ms. DELAURO. I think that it is so important because not only can we not let folks get away with passing off these programs as a savior to working middle-class families, but when you go beneath the surface, you find out how seriously they are going to hurt working families. We should not let them get away with that, "the fact is that Democrats are not for tax cuts."

We have started that process over the last several years. It continues so that people can take advantage of a Tax Code and the tax credits to get their kids to school; to be able to afford the child care; that that small business that you speak so eloquently about has the opportunity for reducing health care costs; or for expanding their business and being able to get the tax relief on equipment that they might buy, and raising those percentages.

There were a whole series of capital gains tax cuts that went into effect for small businesses who ought to be able to take advantage of that, and farmers. And those continue. The benefits continue as pieces of these things get phased in, because I would venture to say today that people are not seeing, immediately, the results of some of these things, so that it is ongoing. We need to be working at that, increasing those opportunities and those targeted

tax cuts. That is where they ought to be going. Those are the folks we ought to be helping at this point.

We ought to be helping seniors cope with fixed income, with a higher rate of illness, perhaps, so that these costs do not skyrocket for them. That is the way we bring some opportunity in folks' lives to be able to raise their standard of living, if you will.

Those who are at the upper end of the scale have these opportunities. Nobody is denying that. They can also be more selective in which taxes they are paying. They have different kinds of shelters, different kinds of opportunities within the Tax Code. I will not even call them loopholes, they are opportunities in the Tax Code, to take advantage of in some way. Working middle-class families do not have those opportunities.

Ms. STABENOW. If I might give just an example.

Ms. DELAURO. Sure.

Ms. STABENOW. In the last tax debate, when the original bill came to the floor, that was basically the Republican tax bill, we did not see an immediate increase in the exemption for the State tax for small businesses, family-owned businesses, and family-owned farms. It was a phased-in amount that you could exempt that was over 10 years. It really was not very much.

I have been hearing, particularly from my family-owned farmers, and also family-owned businesses, about the need it be exempting more of that income when there is a death and be able to protect that income. We fought hard. I voted no on that original bill because it did not have that in it. We have worked very, very hard.

When the final bill was written as a result of our initiatives, we have now exempted $1.3 million for family-owned farms, started this January, $1.3 million for family-owned farms or family-owned businesses. This is the amount of money you do not now have to pay taxes on in your estate. And this was a value that we had about family business and family-owned farms. We fought hard for it, and we were able to make the change.

So we have been moving. We have been taking the proposals and making them better and working very, very, very hard to make sure that we are focusing on families, we are focusing on middle-income people, small businesses, and so on.

I would mention one other thing that we are now working on, and that is, in working with the President in his new pension proposals for small business, I am very pleased to have introduced a bill that will give a tax credit over 3 years for small businesses that set up pension plans for their employees, another important use of the Tax Code in terms of tax relief.

We have now 51 million people working hard every day for small businesses, working full time, no pension; 40 million of those in small businesses with less than 100 employees. So we now are working on an effort to allow that small business to write off the cost of setting up a pension plan so that those people working hard every day, who need that pension when they retire, will have the opportunity to do that.

Mr. PALLONE. Reclaiming my time, I just wanted to mention, I appreciate the comments that the gentlewoman from Michigan and the gentlewoman from Connecticut made, because I think the bottom line is that you are talking about targeted tax cuts that help the average working family.

I wanted to say, though, you know, that just for those who think that perhaps the Democrats do not have an alternative, we really have the only new tax system, if you will, new proposal out there that sweeps away the old Tax Code, but at the same time provides fairness. This is the one that was introduced by our Democratic leader, the gentleman from Missouri (Mr. GEPHARDT).

It is the only major tax reform proposal that retains the progressive rate structure and ensures that this new system is fair. It is a 10 percent tax plan that has been offered by our House Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), recognizing that the Tax Code is too complex and filled with special interest tax breaks that result in higher tax rates for middle-income families.

So what the gentleman from Missouri (Mr. GEPHARDT) has proposed is basically ratifying and simplifying the system and cutting taxes for 70 percent of families with children, with income between $20,000 and $75,000. Under his plan, more than 70 percent of all taxpayers would have a tax rate of 10 percent or less.

This proposal by the gentleman from Missouri also eliminates the marriage penalty by making the standard deduction in tax brackets for couples double those for single people. It eliminates special interest tax breaks. Very important.

You keep reading on a regular basis, particularly around April 15, about all these special interest tax rates. It eliminates them. It eliminates the role of the army of lobbyists who now dominate tax policy discussions. We see them around here. Every one of us has seen these people. This is the time of year when we see them the most.

It calls for a commission to identify and recommend elimination of wasteful and unwarranted corporate tax and spending subsidies. I think this is something we should look at. This is a Democratic proposal by our leader. It stands for a tax system that is fair and simple, in the event you want to look at an alternative.

Ms. DELAURO. I think what is important to mention there, it also maintains that home mortgage deduction, again, which is so critical to families today. As I say, that is part of the American dream. I just wanted to point out, because I know the gentlewoman from Michigan, if you will, she is a technology maven, you know, and is there all the time pushing as how we need to move families and so forth to take advantage of technologies, the way our kids are going to get ahead and so forth.

I think it is interesting in terms of this sales tax here, in every family, kids are coming home today, "Why can't I have a computer? I would like a computer. Why don't have one? You know, Mary has one. Jessica has one. Freddie has one. What about us?"

Well, hold up the chart. I think it is important to note that chart. Family computer, today's price is almost $2,000. It would add an additional 30 percent, another $600, bringing the cost of a family computer to almost $2,600, you know, for the most part, trying to put it out of the reach for working families. They are trying to respond to their kids to allow their kids to get ahead.

It is wrong. This is not what we ought to do. Let us target our tax credits to working families, to small businesses, to small farmers. Let us take a look at that Tax Code. Let us make it simpler. Let us make it easier. These catchwords scrap the code. They are radical. They are dangerous.

We are going to make it our mission here to continue to have these conversations so that the American public knows that they are being sold a pig in a poke. We are going to bring it to their attention so that they do not get fooled by this dangerous and extreme rhetoric.

Mr. Speaker, I think we will be up on our feet again on this issue.

TRAGIC U.S. POLICY IN RWANDA

The SPEAKER pro tempore (Mr. HULSHOF). Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House tonight to reflect on what we have seen on television and heard about, relating to the President of the United States' visit to Africa. I think all of us have witnessed the President as he has made his way across the African continent.

I read in this morning's Washington Post, and I know it was covered by other newspapers, an account of what the President said. And he was in Rwanda when he made this statement. He said, "We did not act quickly enough after the killing began." I believe he was talking to Rwandans.

I want to talk about that statement in a second. But President Clinton will not be going to Somalia on this trip. In Somalia, our President took a humanitarian mission initiated by President

Bush, and turned it into a $3 billion disaster.

Remember, if you will, that President Clinton placed United States troops under United Nations command. Remember, if you will, that as Americans we watched in horror as our murdered troops were left under U.N. command, unable to defend themselves, were dragged through the streets of Mogadishu.

Today, Somolia has slipped back into chaos after this Clinton fiasco. We have to remember what took place in Africa and what the policies of this administration were. I protested the Clinton proposal for Somalia before that tragedy, time and time again, in the well and on the floor of this House.

Let me now turn to Rwanda. President Clinton, as I said in my opening statement, is quoted as saying, "We did not act quickly enough after the killing began." Pay particular attention to what the President said and what is printed in the papers.

Let me, if I may, as Paul Harvey says, tell you and repeat the rest of the story.

The President said we did not act quickly enough after the killing began. But what the President of the United States did not say to the world and to Africa is what we should now be remembering.

I saved the newspaper accounts of what the President said, because I was so stunned by the lack of action and actually the blocking of action by this administration, and brought them with me to the floor tonight. I saved them and had them blown up.

The Secretary General of the United Nations, Boutros-Ghali, begged President Clinton to allow an all-African U.N. force to go into Rwanda. Let me read what he said. This is what was in the newspaper.

□ 2145

When last year's peace agreement collapsed on April 7th and fierce fighting broke out between Hutu and Tutsi, the United Nations cut its 2,700-member force in Rwanda back to a few hundred at the urging of the Clinton administration.

I spoke out then, and I have spoken out afterwards on the floor when we saw what was happening with this administration and this policy before 1 million Africans were slaughtered.

Let me, if I may, recall some of the statements that I made on this floor. I made one statement on this floor, and I will read it. Let me, if I may, trace the history of this tragedy. Let me also, if I may, trace the history of our failed policy.

On April 6th, a plane with the presidents of Rwanda, Burundi was shot down. We knew then the potential for violence, terror and mass killings.

On May 11th, the United States criticized a U.N. plan to send 5,500 multinational soldiers into Rwanda to protect refugees and assist relief workers. No U.S. troops would have been involved.

On May 16th, the U.S. forced the U.N. to delay plans to send 5,500 troops to end violence in Rwanda, an all-U.N. force.

So we see that the history of action and inaction by this administration, and history should so properly record it.

THE STATUS OF OUR NATIONAL DEFENSE AND OUR NATIONAL SECURITY

The SPEAKER pro tempore (Mr. HULSHOF). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to discuss an issue that is not one of the front page stories nationally, but which really needs to be discussed in this body, and that is the status of our national defense and our national security. It is an especially timely discussion tonight because we are about to take up for consideration both in this body and the other body a supplemental bill that will partially deal with the funds that we have been expending in Bosnia and in other parts of the world where our troops are currently deployed. But before I get into my overview, Mr. Speaker, let me respond to some of the discussion from our colleagues on the other side during the previous hour.

They attempted to portray the Republicans as being insensitive to the needs of working people, not caring about seniors, not caring about families, not caring about education, not caring about health care. In fact, nothing could be further from the truth, Mr. Speaker.

I take great pride in being a Member who, by profession, spent years as a public school teacher in a suburban district next to Philadelphia, ran a chapter 1 program for economically and educationally deprived children, and like my colleagues on the Republican and on the Democrat side, cared desperately about the future of our young people.

We in the Republican Party simply have a fundamental difference with our Democrat colleagues. We think that the American people can best decide how to spend their money, what the priorities should be. Obviously, we could spend the money of the American people in a number of different ways, and that is what many of our colleagues on the other side think should be the role of the Federal Government. We, however, believe that giving the American people more of their hard-earned money to spend on their priorities is in fact the best way to allow us all to enjoy the liberties under this system that we are so blessed with.

In fact, following my presentation tonight, one of our colleagues, the gentleman from Iowa (Mr. GANSKE), will be doing an in-depth discussion of health care, and I think he will be raising some very provocative issues about our need to look at the way health care is being provided in this country.

So Republicans do care, Mr. Speaker, and Democrats do care. And I think for Members of either party to get up and totally tear apart the other side is, in fact, what it appears to be; it is just shallow rhetoric, it is political rhetoric designed to try to continue what happened in the last campaign cycle. We do not need that. With the difficult problems that this Nation has, we need to have intelligent discussion, debate, and deal with the real issues that face this country.

One of those issues, unfortunately, Mr. Speaker, that has not been getting much attention has been our national security. In fact, if we look at the record over the past 7 years, the only major area of the Federal budget that has in fact been cut in real terms is our defense portion of the budget. In fact, it has gone down for 13 consecutive years.

Now, many would argue that the world has changed, and since we are no longer in the Cold War where we are having to keep up with a very powerful Soviet Union, that reductions in defense spending are appropriate; and in fact, Mr. Speaker, I agree with that, and I have supported many of the reductions that we in fact have caused to occur over the past several years.

For instance, for the past 3 years, I have been a Republican, as chairman of the Subcommittee on Military Research and Development, voting consistently against the B–2 bomber. It is not that I do not like the technology, I think Stealth technology is critically important, but I just do not think we can afford the B–2 bomber with the budget limitations we have and with the other problems that we have as a Nation.

But we need to look at the facts, Mr. Speaker, in terms of what has been happening with our defense posture, what the threats are, and where we are going to be at the beginning of the next century, because I think we are going to face a very perilous period of time.

First of all, let us make some comparisons. Now the people of America, my constituents back home in Pennsylvania, believe that we are spending so much more of their tax dollars today on defense than what we did in previous years. The facts just do not bear that out, Mr. Speaker. In fact, in the 1960s, and I picked this period of time because we were at relative peace, it was after Korea, but before Vietnam, the country was not at war. John Kennedy was the President. During that

time period, we were spending 52 cents of every Federal tax dollar sent to Washington on our military. We were spending 9 percent of our country's gross national product on defense. We were at peace.

Today, Mr. Speaker, we are spending 15 cents of the Federal tax dollars sent to Washington on the military, about 2.9 percent of our GNP. So, in fact, as a percentage of the total amount of money taken in by Washington, we have in fact dramatically cut the amount of that money going for national security.

But some other things have changed during that time period that we have to look at. First of all, Mr. Speaker, back when John Kennedy was the President, we had the draft. Young people were sucked out of high school, they were paid far less than the minimum wage, and they were asked to serve the country for 2 years.

Today's military is all volunteer; we have no draft. Our young people are paid a decent wage. In fact, many of them have education well beyond high school, college degrees, some have advanced degrees. So we have education costs. We have housing costs because many of our young people in the military today are married; so we have health care costs, housing costs, education costs that we did not have when John Kennedy was President because our troops were largely drafted. So a much larger percentage of this 15 cents on the dollar that we bring into Washington for the military goes for the quality of life of our troops.

And in fact, the bulk of our money today, the bulk of the money spent in the defense budget goes to provide for quality of life for the men and women who serve this country. So that is a fundamental change. But some other things have happened, Mr. Speaker.

First of all, we have to look at what has occurred during the last 7 years or 6 years as this President has seen fit to dramatically cut defense far beyond what I think is a safe level in terms of long-term spending. During a time where the President has proposed massive decreases in defense spending, he has increased the deployment rate of our troops to an all-time high, in fact, the highest level of deployments in the history of America.

Now, let me give some examples, Mr. Speaker. I have a chart that bears this out. This chart shows the number of deployments that our country has provided our troops in terms of the past 7 years. We have deployed our troops, rather, the President has deployed our troops 25 times at home and around the world. These are deployments that involved military operations, some have involved confrontation, many are peacekeeping, some are involved with disaster relief, a whole host of missions. But the point is that during the period of time where we decimated defense spending to an all-time low, we increased the deployment low to an all-time high. Mr. Speaker, 25 deployments in the past 7 years.

Now, compare that to the previous 40 years. We had 10 deployments in that period of time. So in the previous 40 years, prior to Bill Clinton becoming the President, our troops were deployed a total of 10 times. Just in the last 7 years, our troops have been deployed 25 times.

Now, what is so significant about that, Mr. Speaker? Well, what is so significant about that is that none of those deployments were budgeted for, none of them were planned for. So to pay for those deployments, we had to take money from other accounts, because there were no special monies made available to pay for the costs of all of these deployments.

Now, Mr. Speaker, that has a devastating impact on our ability to modernize our military equipment and to maintain the morale of our troops. Let me give an example.

The Bosnian operation, we were told, would only last for a matter of months, perhaps a year to 2 years at the most. By the end of the next fiscal year, the American taxpayers will have spent $9.4 billion on the Bosnia operation alone. In fact, Mr. Speaker, over the past 7 years, with those 25 deployments, we have spent $15 billion on contingency operations around the world, none of which were budgeted for.

Now, someone might say, Mr. Speaker, well, that really does not matter. The military is getting paid anyway; why can they not do their training in these faraway places? Well, sometimes they can do some of that training, Mr. Speaker, but by and large, we cannot pay for the bulk of the support necessary to pay for our troops just out of the training accounts. It just does not work.

What is even more troubling is, as the President has deployed our troops at this rapidly escalating rate, he has not taken the time to get our allies to pay their fair share of the deployment costs.

Now, let me give a comparison. George Bush deployed our troops to the Middle East in Desert Storm, a very expensive operation. But there was a fundamental difference, Mr. Speaker. In Desert Storm, leading up to that operation, President Bush interacted with the leaders of the world on a regular basis. He said to them, we will go in there and we will provide the support of our military in cooperation with an allied forces group, and we will provide the bulk of the sealift and the airlift. But, he said to our allies, not only must you provide the troops to go in with our troops, but you must pay for the operation itself.

Desert Storm cost $52 billion. America was reimbursed over $53 billion. So that in terms of the cost, there was no negative impact on our budget process.

The $15 billion that we have spent on the 25 deployments since Desert Storm have not been paid for and shared by our allies. America has had to pay that bill itself, and all of that funding has come out of defense budgets, none of which was planned for.

What does that mean? That means we have slipped programs to the outyears. It means we have not bought new helicopters to replace old ones. We wonder why we are having helicopter accidents today. In fact, Mr. Speaker, we are going to be flying helicopters built during the Vietnam War that will be 45 years old before they are retired, because to pay for those deployments, we have had to stretch out the replacement buys that will allow those helicopters to be retired.

The B–52 bomber, Mr. Speaker, will be 55 years old before we ultimately retire that aircraft, yet it is still a critical part of our capacity in terms of bombing needs that we might have around the world.

So to pay for all of these deployments, we have had to raid the defense budget. We have kept the numbers that we agreed to, and our party has held fast. But we have eaten out of the Defense Department's capability to modernize our forces and to maintain the quality of life for our troops.

But it is even more outrageous than that, Mr. Speaker. In these deployments where our troops have been sent to Haiti and to Somalia and Macedonia and to Bosnia, the concern of our colleagues in Congress is not that we should not be there; I think almost all of us in this body, Democrats and Republicans, believe, as the world's only remaining superpower, we have an obligation to help settle regional conflicts.

□ 2200

That is not the issue. The issue in the Congress, Mr. Speaker, is that this administration has not gotten support from our allies to be involved and to pay their fair share.

When this body went on record and voted on whether or not to support the President's decision to go into Bosnia, the bulk of our colleagues that I talked to were not against going into Bosnia. They were upset that America was putting 36,000 young Americans in that part of the world when the Germans, right next door to Bosnia, were only committing 4,000 troops. Our colleagues and I say, what is going on here? If Bosnia is right next to Germany, why should not Germany be committing more of its troops, and why should not the European nations be paying more of the cost of the Bosnian operation?

In fact, Mr. Speaker, my understanding is that in the case of some of the Scandinavian militaries, we actually agreed to pay some of their housing costs to get their troops to be part of the multinational force.

The same thing has occurred in Haiti. Our troops are still in Haiti, still maintaining the peace, when we were told they would only be there for a few months at the longest period of time.

In Haiti the President has said to the Congress, I have gotten other nations to come in with America. He is right. But, Mr. Speaker, what he has not told the American people is that to get those countries to come in, he actually has had American DOD dollars pay for the salaries, the housing costs, and the food for those foreign troops. The Bangladesh military has sent 1,000 troops into Haiti to help out. Why? Partially because American tax dollars have paid for those troops to come into Haiti.

The point is one, I think, Mr. Speaker, that points up the fact of the problem of our defense budget. In a period where we have cut defense spending dramatically because the threats have decreased, we in fact, Mr. Speaker, have increased deployments and not gotten our allies to share that burden. It has caused us to face a crisis right now in the military.

There is one more factor we have to look at, Mr. Speaker. That is the fastest growing portion of the defense budget, the fastest growing portion of the defense budget, in a very quickly shrinking budget, is not for new weapons systems. It is not for salary increases for the troops. It is for a fund that we call environmental mitigation.

I take great pride in my environmental voting record, Mr. Speaker, as a Republican, and will continue that record as long as I am in this body. But we are spending $12 billion this year of DOD money for what we call environmental mitigation.

Some of that is critically important. When we decommission nuclear submarines, we have to make sure that we deal with that spent nuclear fuel and that we do it in a safe way. When we close down military sites, we have to make sure that we clean up those sites from any hazards that may be there.

But Mr. Speaker, we have gone to the extreme. We have begun to use the defense budget as a cash cow. A military base is open on one day, where you have the children, the offspring of military personnel, going to an elementary school on the base and not suffering any adverse consequences.

The base closes down, and then the local leaders of the community say, this base is a toxic waste site because the military used chemicals there. Then they demand from the Federal government, and we have gone along with this game, hundreds of millions of dollars not to just clean up those sites, but to develop very extensive reuse and economic development schemes, using money that was originally designed to be used for the defense of this country. That fund, Mr. Speaker, is now $12 billion, and it is growing each year.

The point that I am trying to make is not that we have in fact the need to dramatically increase defense spending, because we cannot do that. But, Mr. Speaker, we have some hard choices to make.

This President has either got to help us reform the laws dealing with these bases that we have closed, to give us some flexibility in the Congress and in the administration of these base closings in terms of the costs that we have to put forward, he has to get our allies to pay more of the share of these deployments, or reduce the deployment levels that our troops are being asked to commit to around the world, or he has to do what he has already asked for, and that is another round of base closings.

The administration today is pleading for this Congress to approve another round of military base closings. Let me say, Mr. Speaker, I agree with the President. We should close more bases in America. I agree with the President, but the President is not going to be able to get a base closing bill through this Congress.

The average citizen would say well, if we need to close more bases, if that is going to help us save money because it will reduce our military, why then will not the Congress approve a base closing process? The answer is simple, Mr. Speaker.

In the 12 years that I have been in Congress, one of the most difficult assignments that we had to make 6 or 7 years ago was how to reduce the military infrastructure as we cut the number of troops in the military. No Member of Congress wants to close a base in his or her district. It is political suicide. So we went to great lengths, Democrats and Republicans, to set up an independent process to remove politics from base closings, so neither Democrats nor Republicans could decide whose base would be closed based upon politics alone.

This independent commission twice recommended base closings. One of the first bases closed was the Philadelphia Navy Yard, right next to my district. When it closed, 13,000 people lost their jobs. But with a shrinking Navy, we cannot support eight public shipyards. We had to close four of them. So the base closing process worked twice. We closed a significant number of bases.

Then a third round of base closings was recommended, and something different happened. President Clinton, in the year that he was running for reelection, made a decision. He said, we are going to take the recommendations of the commission, except for two. I am going to recommend that we keep one base in California and one base in Texas open, even though it has been recommended for closure. So those two bases were given reprieves.

It just so happened that those two bases are in the two States with the most electoral votes. Many would say that the reason the President disagreed with the base closing commission was because he wanted to have California and Texas support him in the campaign. I am not going to make that accusation today, but what the President did do, Mr. Speaker, was that he soured the process.

Members of Congress today, Democrats and Republicans, will not vote for a new round of base closings because they do not trust this administration. We were fooled once, and we will not be fooled again. This President took a nonpolitical process that Republicans and Democrats agreed to and he violated that process. Now we do not have the confidence that this administration will go back to the way base closings occurred in the past.

Therefore, we are in a dilemma. We need to close more bases, but this administration, who says we need to close more bases, cannot get a base closing process approved by this Congress. It is because of the actions of this President.

All of these things occurring are affecting our defense budget. That is why the debate coming up this week and next week on the floor of the House and the floor of the other body will be about whether or not we replenish some of that money that has been spent on Bosnia into the DOD budget. I think that is the only thing we can do. We have had a budget agreement that has been very tight. We set caps on defense spending, and we have now violated those caps.

The Congress did not go in and take money out of that defense budget, we did not raise the caps. It was the President himself that deployed these troops to exotic places around the world, many of which I supported, and did not propose a way to pay for them. Therefore, our defense budget was unilaterally cut.

What we want the supplemental to do, what I want the supplemental to do, is to reinstate some of that money, less than $2 billion, to those defense accounts that have been decimated by over $9 billion just for Bosnia alone, and $15 billion for all of our contingency operations over the past 7 years. I think that is the right thing to do for our troops, and the right thing to do for our military.

Let me get on to the next point I wanted to make, Mr. Speaker: that is, the President lulling us into a false sense of security. The President is the Commander in Chief. When my constituents back in Pennsylvania listen to the President give a speech, they know he is also the Commander in Chief, and he knows what the threats are in the world. But let me talk about some of those threats. Let me talk about the President's use of the bully pulpit to convey to the American people a false sense that there are no longer threats in the world.

As I said earlier, I am the first to admit, it is a changed world. The Cold

War is over. But does that mean Russia is no longer a threat? Mr. Speaker, I do a significant amount of work with Russia. I formed and chair the initiative with their Duma. I have been to Russia 14 times, four times in the last year. My undergraduate degree is in Russian studies. I know the language, and I am working right now on a number of positive programs to help stabilize Russia.

I do not see Russia as an evil empire, Mr. Speaker. But let me say this: Russia is more destabilized today than at any time in the last 50 years. We need to understand that, not from fear of having Russia mount an all-out attack on America. I do not believe that is in any way, shape, or form what Boris Yeltsin or any other leader would want to do. But there is a heightened opportunity or a heightened potential for incidents involving and as a result of the instability in Russia today.

Let me give some examples. With the economic chaos in Russia today, more and more of Russia's conventional military is being decimated. The generals and admirals who were the key leaders in the Soviet military have been forced out of their positions with no pensions, with inadequate housing, in most cases no housing.

In many cases, as General Lebed testified before my subcommittee last week here in Washington, and as he has told me on two other visits in Moscow and Washington, they have now had to resort to criminal activities to take care of their families.

So these generals and admirals, who know where all the technology is in Russia, who know where the nuclear materials are in Russia, are now resorting to selling those materials on the black market because they feel betrayed by the motherland. We are seeing technology transfer occur at a rate now that we have not seen in the past 50 years.

This is not being fostered by Boris Yeltsin, it is occurring because of instability in Russia, because of Russian military officers who feel betrayed by their country. In addition to that, Mr. Speaker, Russia's demise of their conventional military has caused them to be more reliant on their offensive, long-range strategic missiles.

The President has given a speech three times in this well and 190 times in America where he has said something like this. He has looked in the camera and said, you all can sleep well tonight because, for the first time in 50 years, there are no long-range ICBMs pointed at America's children.

As the Commander in Chief, Mr. Speaker, he knows we have no way of verifying that. The Russians will not allow us to have access to their targeting, just as we will not allow them to have access to ours. But he also knows, Mr. Speaker, you can retarget an ICBM in 15 to 30 seconds. In addition, Mr. Speaker, he knows that China today has 18 to 25 ICBMs, each with a range of 30,000 kilometers, that are aimed at American cities that can launch at any city in America.

But let us look beyond that, Mr. Speaker. Let us look at whether or not there is a potential for an incident to occur that would threaten American troops or the American people.

In January, 1995, Norway announces to Russia in a written communication that they are going to launch a multi-stage weather rocket from an island off the coast of Norway. It is a courtesy to notify a neighboring country. The date of the launch comes about, and Norway launches this multi-stage weather rocket. Russian intelligence, with systems that are not being properly maintained, sees this multi-stage rocket taking off and mistakes it for an American multi-stage ICBM coming from one of our submarines at sea.

The Russian security system puts the system in Russia on a full alert, which means that they activate the black boxes, the cheggets, that control the Russian nuclear arsenal which are in the hands of Boris Yeltsin, at that time Pavel Grachev, the defense minister, and General Kolesnikov, the chief of the command staff, which meant that Russia had 15 minutes within which was the time period allocated to call off a nuclear response against America to a weather rocket that they had been forewarned of by Norway.

Mr. Speaker, this is not a Stephen Spielberg science fiction movie, this is what occurred. The Russians have acknowledged this. In fact, Boris Yeltsin's explanation was that it was a good test of their system; that with 7 minutes left, he overruled Kolesnikov and Grachev and called off the response.

□ 2215

Mr. Speaker, that is the threat. The threat is from an accidental launch. The threat is from a rogue Nation getting a capability that threatens our troops, our allies, and our people. That is why we need to continue to focus on national security. Not because Russia is the "evil empire," because they are not. Not because China is coming after us, because they are not. But because there are risks in the world today that I would argue are greater than what they have been for the past 50 years, mainly because of the lack of cohesion inside of Russia and with the Russian Government and its military.

Another example, Mr. Speaker, last May I was in Moscow, and among the meetings that I had were with the senior leaders of the Duma, including the Deputy Defense Minister; the Minister of Natural Resources, Orlov; the Minister of Atomic Energy, Mikhaylov; and Boris Nemtsov, the Deputy Prime Minister.

I met again with General Lebed. And as you know, General Lebed is a four-star retired general. He is the individual credited with ending two wars that Russia was involved in: the war in Moldavia and the war in Chechnya. Lebed himself ended both of those conflicts. He ran for the presidency against Yeltsin, and Yeltsin was so fearful of his candidacy that he enticed him to leave the race to come work for him as one of his top advisors.

Many give General Lebed the credit for allowing Yeltsin to win the last election, because if Lebed had stayed in the race, he would have taken enough votes away from Yeltsin that the Communist Zyuganov would have won the presidential election in Russia at the same time the Communist Party was winning 165 seats in the State Duma.

General Lebed, in our meeting last May, a private meeting with six Members of Congress, was talking to us about the security of Russian nuclear weapons. He was talking to us about decommissioned submarines, nuclear powered submarines sitting in dry-dock with no solutions in sight to deal with that nuclear waste and those contaminated products.

He gave us a number of examples of Russian military going into Mafia-type operations, selling equipment, hardware, and even the potential of selling nuclear materials. But then he talked about one specific incident. He said in response to a question I asked him about nuclear devices, whether or not Russia had any small nuclear devices, he said, "Let me tell you a story. When I was the secretary of the Defense Council for President Yeltsin, one of my assignments was to account for 132 suitcase-sized nuclear bombs. These are devices that could be carried by two people, each with the capacity of approximately 1 kiloton, which is about one-tenth the size of the Hiroshima bomb.

He said Russia built 132 of these. "I was given the assignment to account for them." He said, "My people could only find 48." We said, "General, where are the rest?" And he said, "I have no idea." He said, "They could be safe. They could be secure. We do not know where they are. They could be in someone else's hands. They could be on the border. They could be in the former Soviet States, I just do not know."

Mr. Speaker, I came back from that trip. There was no press in place. This was not an attempt, as the Russian Government would later say, by Lebed to get some headlines. There was no press in the meeting. There was no press conference. I came back to Washington and I debriefed the CIA and the DIA on what the Russian general had told me. They could not tell me whether or not they knew whether or not General Lebed knew that these devices were not secure. Our intelligence just did not know the answer to that question.

Now, the Russians trashed General Lebed. They called him a traitor. They said he did not know what he was talking about, this general had no idea of whether or not Russia ever built nuclear devices. And many of the senior officials from Russia denied that Russia ever built these devices.

"60 Minutes" contacted me in August when they read my trip report, which became a part of the CONGRESSIONAL RECORD, and they said, "Congressman, did the general really say this?" And I said yes. They said, "Can we interview you?" I said yes. They interviewed me and went to Moscow and interviewed General Lebed. And the first story in September of last year by "60 Minutes" was General Lebed repeating what he told me in that meeting in Moscow.

Again, the Russia media denied what the general said. They trashed him. In fact, our own Department of Defense, our press spokesman said publicly, "We have no reason to doubt that Russia does not control any small nuclear devices they may have built."

So in October, I invited one of my Russian scientific friends to come to Washington. Alexei Yablakov. Dr. Yablakov is one of the most world-renowned environmental leaders in Russia. He is an ecologist. Dr. Yablakov came. He is a member of the Academy of Sciences in Moscow. He came to Washington and testified before my committee. He said on the public record that he knew that General Lebed was telling the truth. Russia built these devices, and he knew scientists who were his colleagues who had worked on these devices and who told him that some of them were built for the KGB, and that it was imperative for Russia to find and locate and destroy these nuclear suitcases.

Yablakov was called a traitor back in Moscow. The media trashed him. They said he was no good. Yablakov defended his honor. The story was a major story all over Russia. In fact, the Defense Minister called Yablakov into the Kremlin, and working with him, said they would issue a decree, a presidential decree to account for any of these devices that may have been built which they denied had been built earlier.

Mr. Speaker, I was again in Moscow in December, and on that trip I met for an hour and a half with the Defense Minister of Russia, General Sergeyev. In his office I again asked him about the small nuclear devices. He said, "Congressman, we did build these devices. In fact, we built several types of them, as your country did. We know that have you destroyed all of your small nuclear devices. We still have approximately 200. But I commit to you that by the year 2000, we will have them all destroyed."

Now, why do I tell this story, Mr. Speaker? I tell this story because to create the impression that all is stable in Russia is exactly the wrong position to be stating to the American people. We do not need to scare the American people, but we need to be honest with them, candid with them, and the same thing applies with Russia itself.

Because of the instability in Russia, many individuals and entities are looking to sell off technologies and products to rogue nations. Two years ago, we caught Russian institutes and individuals transferring guidance systems for rockets to Iraq. In fact, the Jordanian and Israeli intelligence intercepted these devices which are very expensive, that had been taken off of Russian SSN-19 rockets, very sophisticated long-range rockets that were being shipped to Iraq.

Three times the CIA caught Russia transferring sets of guidance systems to Iraq. One hundred twenty sets of these guidance systems, Mr. Speaker, went from Russia to Iraq, to allow Iraq to improve the accuracy of their Scud missiles which killed our 27 Americans 7 years ago.

Not one time did this administration impose sanctions as required under the treaty between the U.S. and Russia called Missile Technology Control Regime, which requires sanctions when a nation or an entity is caught selling material that is covered by that treaty. In fact since 1993, we have caught Russia violating the Missile Technology Control Regime seven times. We have not imposed sanctions once.

This past summer, the Israelis came to America and they said, we have evidence that Russian scientists are working with Iran to allow Iran to build medium-range missiles that we cannot defend against. Initially the administration raised cain because that kind of intelligence information they did not want out. When the investigation was done, we found out exactly what happened, and that in fact was Russian entities involved with the Russian space agency had been transferring technology to Iran to allow Iran to build a medium-range missile partly based on the Russian SS-4 missile.

What does this mean, Mr. Speaker? This means that within 12 months, Iran will have a medium-range missile that can hit any one of 25,000 American troops that this President today has deployed in Bosnia, in other regions around the Middle East, Somalia, Macedonia, because of the capability of those missiles. It also means that Iran will be able to hit, from its homeland, Israel directly with a medium-range missile.

It means that Iran is working, as well as Iraq, on developing medium-range missile capabilities that is going to destabilize that part of the world. And the horror story here, Mr. Speaker, is we will have no system in place to defend Israel against those missiles when they are deployed.

Now, some say we have the Patriot system. It was great during Desert Storm. The Patriot system was not designed to take out missiles. It was built as a system to shoot down airplanes. When the risk of Saddam's Scud missiles appeared in Desert Storm, Raytheon Corporation was able to heat up that Patriot system to give us some capability to take out low-complexity Scud missiles. But our military has acknowledged publicly that during Desert Storm, the Patriot system was at best 40 percent effective, which meant that 60 percent of the time we could not take out those Scud missiles. And even when we did hit the Scud missile, we were not hitting the warhead where a chemical or biological weapon would be. We were hitting the tail section, so that the debris would actually land on the people and still do the devastating damage of the bomb or the weapon of mass destruction and have its impact on the people whom it was intended to hurt.

In fact we had our largest loss of life of American troops in this decade in Dhahran, Saudi Arabia, when that low-complexity Scud missile went into that barracks.

The point reinforces my notion, Mr. Speaker. While we need to continue to control the amount of defense spending, we need to be prepared for what is happening in the world today. China is spending a larger and larger amount of its money on defense. North Korea has now deployed a medium-range missile that we thought we would not see for 5 years. It is called the No Dong. It now threatens all of Japan. It threatens South Korea, and potentially troops in that theater, and they are working on a longer-range missile that eventually will be able to hit Alaska and Hawaii.

The point is that as much as we want to spend more and more money on domestic programs, we cannot do that by sacrificing the strong deterrent that a strong military provides. The reason we have a strong military is not just to fight wars. It is to deter aggression. There has never been a nation that has fallen because it is too strong. And while we do not want to be the bully of the world, we need to understand that strength in our military systems deters regional aggression. And regional aggression is what leads to larger confrontations and eventually world war.

Here is a summary, Mr. Speaker, of the budget projections from 1991 to 2001. The blue bar graph is mandatory outlays. They are going to increase by 35 percent during that 10-year period. The green bar graph is domestic discretionary spending. That is going to increase by 15 percent during the 10-year period. The red bar graph is defense spending. It is decreasing by 35 percent during that 10-year time period.

We need to be careful, Mr. Speaker, that we do not approach a similar situation to what occurred in the 1970s, because if we allow our military to not modernize, to not provide the support

for the morale of the troops, we could begin to see a decay that we will not be able to reverse.

Now, why is all of this important and why do I discuss it today? Because the budget problems that I outlined at the beginning of my special order are going to be exacerbated after the turn of the century. This administration has postponed all modernization in our military and, therefore, everything has been slid until the next administration comes into office. This administration looks great. They have been able to balance the budget, they have been able to cut spending. They say they have cut Federal spending. They have only cut defense. That is the only area of the Federal Government where we have had real decline in real terms.

□ 2230

But in the process of doing that, they have postponed decisions for new systems until the next century. In the year 2000 and beyond, these are the systems that are currently scheduled by this administration to go into full production: the V–22 for the Marine Corps; the Comanche for the Army; the F–22 for the Air Force; the F/A–18E and F for the Navy; the Joint Strike Fighter for the Navy, Air Force, and Marine Corps; a new aircraft carrier; new destroyers.

The Army after next, an information-controlled Army: missile defense, theater missile defense, national missile defense. All of these programs, Mr. Speaker, are coming on line at the beginning of the next century and none of them can be paid for because of what we are doing to the defense budget today.

Now, what have I proposed? I have told the administration, cut more programs. If you are not going to cut environmental costs, if you are not going to reduce deployments, if you cannot close more bases, and if you are not going to give us more money for defense, then cancel more programs.

I voted to cancel the B–2, and the President kept the line open one more year during his election year in spite of the fact that we should have canceled it and saved that money. And I told the administration, cancel one of the tactical aviation programs. We cannot build three new TACAIR programs. This year we are spending $2.7 billion on tactical aviation that is buying new fighter planes.

The current plans of this administration in building the F–22, the Joint Strike Fighter, and the F/A–18E and F, the GAO and CBO estimate in 10 years would cost us between 14 and 16 billion dollars a year. Where does this President think he is going to get—he is not going to be here. Where does he think the next President is going to get an increase of $10 to $12 billion just for tactical fighters alone? It is not going to happen, Mr. Speaker.

That is why I am predicting a major train wreck, a train wreck that could jeopardize security of this country. We have got to be realistic about what the threats are. We have got to be realistic about what our needs are. We have got to be realistic about the way that we prioritize spending. We have got to be honest with the American people. And we have not done this.

This administration in the State of the Union speech two months ago mentioned national security out of an 80-minute speech in two sentences. Yet the President is quick to deploy our troops around the world, but does not want to fund the dollars to support those very troops and modernize them.

Something has got to give, Mr. Speaker. And I hope this special order tonight will make our colleagues, will make this city, and will make this country understand the dilemma we are facing. I am not here to advocate massive increases in defense spending. I am here to say help us control the amount of money we are currently putting forth, cut where we can, be realistic about what the threats are, and be honest about what our needs are in the 21st century. Because if we do not do that, I think the prospects for the long-term security of this country and the free world get dimmer and dimmer.

HMO CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes.

Mr. GANSKE. Mr. Speaker, 2 years ago I met a woman who killed a man. I did not meet her in prison. She was not on parole. She had never even been investigated by the police. In fact, for causing the death of a man, she received congratulations from her colleagues and she moved up the corporate ladder. This woman, Dr. Linda Peeno, was working as a medical reviewer at an HMO.

In testimony before the Committee on Commerce on May 30, 1996, she confessed that her decision as an HMO reviewer to deny payment for a life-saving operation led to the preventable death of a man she had never seen. Dr. Peeno then exposed the ways that HMOs denied payment for health services. She showed how plans draft contract language to restrict access to benefits. She showed how HMOs cherry-pick healthy patients. She showed how HMOs use technicalities to deny necessary medical care.

Dr. Peeno also told Congress about the most powerful weapon in an HMO's arsenal to hold down costs. HMOs generally agree to cover all services that are deemed medically necessary. But because that decision is made by HMO bureaucrats, not by the treating physician, Dr. Peeno called it the "smart bomb" of cost containment.

Hailed initially as a great breakthrough in holding down health costs, the painful consequences of the managed care revolution are being revealed. Stories from the inside, like those told by Dr. Peeno, are shaking the public's confidence in managed care. We can now read about some of Dr. Peeno's experiences in the March 9 edition of U.S. News and World Report.

The HMO revelations have gotten so bad that health plans themselves are running ads touting the fact that they are different from the bad HMOs that do not allow their subscribers a choice of doctors or interfere with their doctors practicing good medicine.

Here in Washington one ad says, "We don't put unreasonable restrictions on our doctors. We don't tell them that they cannot send you to a specialist." This Chicago Blue Cross ad proclaims, "We want to be your health plan, not your doctor." In Baltimore, the Preferred Health Network ad states, "At your average health plan, cost controls are regulated by administrators. APHN doctors are responsible for controlling costs."

This goes to prove that even HMOs know that there are more than a few rotten apples in the barrel. The HMO industry has earned a reputation with the public that is so bad that only tobacco companies are held in lower esteem. Let me cite a few statistics.

A national survey shows that far more Americans have a negative view of managed care than a positive view. By more than 2-to-1, Americans support more government regulation of HMOs. The survey shows that only 44 percent of Americans think managed care is a good thing.

Do my colleagues want proof? Well, recently I saw the movie "As Good As It Gets." When Academy Award winner Helen Hunt expressed an expletive about the lack of care her asthmatic son gets from their HMO, people clapped and cheered. It was by far the biggest applause line of the movie. No doubt the audience's reaction has been fueled by dozens of articles and news stories highly critical of managed care and also by real-life experiences.

In September 1997, the Des Moines Register ran an op-ed piece entitled "The Chilly Bedside Manner of HMOs" by Robert Reno, a Newsweek writer. Citing a study on the end-of-life care, he wrote, "This would seem to prove the popular suspicion that HMO operators are heartless swine."

The New York Post ran a week-long series on managed care; headlines included. "HMOs Cruel Rules Leave Her Dying for the Doc She Needs."

Another headline blared out, "Ex-New Yorker Is Told, Get Castrated In Order To Save." Or this one: "What His Parents Didn't Know About HMOs May Have Killed This Baby." Or how about the 29-year-old cancer patient whose HMO would not pay for his treatments?

Instead, the HMO case manager told the patient to "hold a fund-raiser," a fund-raiser. Mr. Speaker, I certainly hope that campaign finance reform will not stymie this man's chance to get his cancer treatment.

To save money, some HMOs have erected increasingly steep barriers to proper medical care. These include complex utilization preview procedures, computer programs that are stingy about approving care, medical directors willing to play fast and loose with the term "medically necessary."

Consumers who disagree with these decisions are forced to work their way through Byzantine appeals processes which usually excel at complexity, but generally fall short of fairness; and these appeals, unfortunately, Mr. Speaker, can last longer than the patient. The public understands the kind of barriers they face in getting needed care.

Republican pollster Frank Luntz recently held a focus group in Maryland. Here is what some consumers said. One participant complained, "I have a new doctor every year." Another said she is afraid that if something major happened "I wouldn't be covered." A third attendee griped that he had to take off work twice because the plan requires people to see the primary care doctor before seeing a specialist.

Those fears are vividly reflected in editorial page cartoons. Here is one that reflects what the focus group was talking about. It shows a woman working in a cubicle in a claims department of an HMO. In talking with the customer she remarks, "No, we don't authorize that specialist. No, we don't cover that operation. No, we don't pay for that medication. No, we don't consider this assisted suicide." These HMO rules create ethical dilemmas.

A California internist had a patient who needed emergency treatment because of fluid buildup in her lungs. Under the rules of the patient's plan, the service would come at a hefty cost to the patient. She told the doctor that she could not have the treatment because she did not have the money. However, if she was admitted to the hospital, she would have no charges. So her doctor bent the rules. He admitted her and then he immediately discharged her.

Now, Mr. Speaker, are HMOs now forcing doctors to lie for their patients? HMOs have pared back benefits to the point of forcing Congress to get into the business of making medical decisions. Take, for example, the uproar over the so-called drive-through deliveries. This cartoon shows that some folks thought health plans were turning their maternity wards into fast food restaurants. As the woman is handed her new child, the gate keeper at the drive-through window asks, "Would you like fries with that?"

Well, in a case that is not so funny, in 1995 Michelle and Steve Bauman testified before the Senate about their daughter, Michelina, who died two days after she was born. Their words were powerful and eloquent. Let me quote from Michelle and Steve's statement. "Baby Michelina and her mother were sent home 28 hours after delivery. This was not enough time for doctors to discover that Michelina was born with streptococcus, a common and treatable condition. Had she remained in the hospital an additional 24 hours, her symptoms would have surfaced and professional trained staff would have taken the proper steps so that we could have planned a christening rather than a funeral. Her death certificate listed the cause of death as meningitis." Michelle and Steve went on to say, "when it should have read, death by the system."

In the face of scathing media criticism and public outrage, health plans insisted that nothing was wrong, that most plans allowed women to stay at least 48 hours and that babies discharged the day of delivery were just as healthy as others.

Mr. Speaker, that line of defense sounds a lot like the man who was sued for causing an auto accident. "Your Honor, he says, I was not in the car that night. But even if I was, the other guy was speeding and swerved into my lane."

□ 2245

For expectant parents, however, the bottom line was fear and confusion. There is nothing more important to a couple than the health and safety of their child. Because managed care failed to condemn drive-through deliveries, all of us are left to wonder whether our plans place profits ahead of care. The drive-through delivery issue is hardly the only example of the managed care industry fighting to derail any consumer protection legislation. What makes this strategy so curious is that most plans had already taken steps to guarantee new moms and infants 2 days in the hospital. Sure, there were some fly-by-night plans that might not have measured up, but most responsible plans had already reacted to the issue by guaranteeing longer lengths of stay. The HMOs' efforts to reassure the public that responsible plans do not force new mothers and babies out of the hospital in less than 24 hours, however, were completely undermined by their opposition to a law ensuring this protection to all Americans. That was a missed opportunity for the responsible HMOs to get out front, to proactively work for legislation that reflected the way they already operated. Not only would it have improved managed care's public image, but it would have given them some credibility.

Why then did managed care oppose legislation on this issue? Because the HMO industry is Chicken Little. Every time Congress or the States propose some regulation of the industry, they cry, "The sky is falling, the sky is falling." I would suggest that by endorsing some common sense patient protections, managed care would be more believable when they oppose other legislation.

Mr. Speaker, today's managed care market is highly competitive. Strong market rivalry can be good for consumers. When one airline cuts fares, others generally match the lower prices. In health care when one plan offers improved preventive care or expanded coverage, other market participants may follow suit. But the competitive nature of the market also poses a danger for consumers. In an effort to bolster profits, plans may deny coverage of care that is medically necessary. Or they may gag their doctors to cut costs. Some health plans have used gag rules to keep their subscribers from getting care that may save their lives.

During congressional hearings 2 years ago, we heard testimony from Alan DeMeurers who lost his wife Christy to breast cancer. They are pictured here with their children. When a specialist at UCLA recommended that Christy undergo bone marrow transplant surgery, her HMO leaned on UCLA to change its medical opinion. Who knows whether Christy would be with her two children today had her HMO not interfered with her doctor-patient relationship. HMO gag rules have even made their way onto the editorial pages. Here is one such cartoon. A doctor sits across the desk from a patient and remarks, "I'll have to check my contract before I answer that." Dr. Michael Haugh is a real life example of this problem. He testified before the Committee on Commerce and told how one of his patients was suffering from severe headaches. He asked her HMO to approve a specific diagnostic procedure. They declined to cover it, claiming that magnetic resonance arteriogram was experimental. Remember, Dr. Peeno testified about the clever ways that health plans decide not to cover requested care. So Dr. Haugh explained the situation in a letter to his patient. In it he wrote, "The alternative to the MRA is to do a test called a cerebral arteriogram which requires injecting dye into the arteries and carries a much higher risk to it than MRA. It is because of this risk that I am writing to tell you that I still consider that an MRA is medically necessary in your case." Two weeks later, the medical director of BlueLines HMO wrote to Dr. Haugh. He said, "I consider your letter to the member to be significantly inflammatory. You should be aware that a persistent pattern of pitting the HMO against its member may place your relationship with BlueLines HMO in jeopardy. In the future I trust you will choose to direct your concerns to my office rather than in this manner."

Amazing. The HMO was telling this doctor that he could not express his professional medical judgment to his patient. Cases like these and others demonstrate why Congress needs to pass legislation like the Patient Right to Know Act to prevent health plans from censoring exam room discussions. This gag rule cartoon is even more pointed. Once again a doctor sits behind a desk talking to a patient. Behind the doctor is an eye chart saying "ENUF IZ ENUF." The doctor looks at a piece of paper and tells his patient, "Your best option is cremation, $359, fully covered," and the patient says, "This is one of those HMO gag rules, isn't it, Doctor?"

The HMO industry continues to fight Federal legislation to ban gag rules. The HMOs and their minions in Congress still keep the Patient Right to Know Act from coming to the floor, despite the fact that it has been cosponsored by 299 Members of this House, endorsed by over 300 consumer and health profession organizations and has already been enacted to protect those receiving services under Medicare and Medicaid, but not for those of you who are not poor or elderly. Even some executives of managed care plans have privately told me that they are not opposed to a ban on gag rules, because they know that competition can result in a race to the bottom in which basic consumer protections are undermined.

My bill to ban gag rules presents managed care with an opportunity to be on the vanguard of good health care. Instead, they are frittering away another opportunity just like they did with drive-through deliveries. In opposing a ban on gag rules, HMOs have only fueled bipartisan support for broader, more comprehensive reform legislation.

In recognition of problems in managed care, last September three managed care plans joined with consumer groups to announce their support of an 18-point agenda. Here is a sample of the issues that the groups felt required nationally enforceable standards, things like guaranteeing access to appropriate services, providing people with a choice of health plans, ensuring the confidentiality of medical records, protecting the continuity of care, providing consumers with relevant information, covering emergency care, disclosing loss ratios, banning gag rules. These health plans and consumer groups wrote, "Together we are seeking to address problems that have led to a decline in consumer confidence and trust in health plans. We believe that thoughtfully designed health plan standards will help to restore confidence and ensure needed protection." Mr. Speaker, I could not have said it better myself. These plans, including Kaiser Permanente, HIP, the Group Health of Puget Sound probably already provide patients with these safeguards. So it would not be a big challenge for them to comply with nationally enforceable standards. By advocating national standards, these HMOs distinguish themselves in the market as being truly concerned with the health of their enrollees. Noting that they already make extensive efforts to improve their quality of care, the chief executive officer of Health Insurance Plan, known as HIP said, quote, "Nevertheless, we intend to insist on even higher standards of behavior within our industry and we are more than willing to see laws enacted to ensure that result." Let me repeat that. "We are more than willing to see laws enacted to ensure that result."

One of the most important pieces of their 18-point agenda is a requirement that plans use a lay person's definition of emergency. Too often health plans have refused to pay for care that was delivered in an emergency room. The American Heart Association tells us that if we have crushing chest pain, we should go immediately to the emergency room because this could be a warning sign of a heart attack. But sometimes HMOs refuse to pay if the patient tests normal. If the HMO only pays when the tests are positive, I guarantee you, Mr. Speaker, people will delay getting proper treatment for fear of a big bill and they could die if they delay diagnosis and treatment. Another excuse HMOs use to deny payment for ER care is the patient's failure to get preauthorization. This cartoon vividly makes the point.

Kuddlycare HMO. My name is Bambi. How may I help you?

You're at the emergency room and your husband needs approval for treatment?

Gasping, writhing, eyes rolled back in his head? Doesn't sound all that serious to me.

Clutching his throat? Turning purple? Um-huh. Have you tried an inhaler?

He's dead? Well, then he certainly doesn't need treatment, does he?

Gee, people are always trying to rip us off.

Does this cartoon seem too harsh? Ask Jacqueline Lee. In the summer of 1996, she was hiking in the Shenandoah Mountains when she fell off a 40-foot cliff, fracturing her skull, her arm and her pelvis. She was airlifted to a local hospital and treated. You will not believe this. Her HMO refused to pay for the services because she failed to get preauthorization. I ask you, what was she supposed to do with broken bones lying at the base of the cliff? Call her HMO for preauthorization? I am sad to say that despite strong public support to correct problems like these, managed care regulations still seem stalled here in Washington. Some opponents of legislation insist that health insurance regulation, if there is to be any at all, should be done by the States.

Other critics worship at the altar of the free market and insist its invisible hand can cure the ills of managed care. As a strong supporter of the free market, I wish we could rely on ADAM SMITH's invisible hand to steer plans into offering the services consumers want. And while historically State insurance commissions have done an excellent job of monitoring the performance of health plans, Federal law puts most HMOs beyond the reach of State regulations. Let me repeat that. Federal law puts most HMOs beyond the reach of State regulations. How is this possible? More than two decades ago, Congress passed the Employee Retirement Income Security Act, which I will refer to as ERISA, to provide some uniformity for pension plans in dealing with different State laws. Health plans were included in ERISA, almost as an afterthought. The result has been a gaping regulatory loophole for self-insured plans under ERISA. Even more alarming is the fact that this lack of effective regulation is coupled with an immunity from liability for negligent actions. Mr. Speaker, personal responsibility has been a watchword for this Republican Congress. This issue is no different. I have worked with the gentleman from Georgia (Mr. NORWOOD) and others to pass legislation that would make health plans responsible for their conduct. Health plans that recklessly deny needed medical service should be made to answer for their conduct. Laws that shield them from their responsibility only encourage HMOs to cut corners.

Take this cartoon, for instance. With no threat of a suit for medical malpractice, an HMO bean counter stands elbow to elbow with the doctor in the operating room. When the doctor calls for a scalpel, the bean counter says, "pocket knife." When the doctor asks for a suture, the bean counter says, "Band-Aid." When the doctor says, "Let's get him to the intensive care unit," the bean counter says, "Call a cab."

Texas has responded to HMO abuses by passing legislation that would make ERISA plans accountable for improper denials of care. But that law is being challenged in court and a Federal standard is needed to protect all consumers. The lack of legal redress for an ERISA plan's act of medical malpractice is hardly its only shortcoming. Let me describe a few of ERISA's other weaknesses.

□ 2300

ERISA does not impose any quality assurance standards or other standards for utilization review. Except as provided in Kassebaum-Kennedy, ERISA does not prevent plans from changing, reducing or terminating benefits. With a few exceptions, ERISA does not regulate a plan's design or content, such as covered services or cost sharing. ERISA does not specify any requirements for maintaining plan solvency.

ERISA does not provide the standards that a State insurance commissioner would.

It seems to me that we can take one of three approaches in reforming the way health plans are regulated by ERISA. The first would be to do nothing, but I think I have already demonstrated why that is not acceptable.

The second option would be to ask the States to reassume the responsibility of regulating these plans. This was the traditional role of the States, and they continue to supervise other parts of the health insurance market. But I will tell you why that will not work.

Turning regulation of ERISA plans over to the States will be fought tooth and nail by big business and by HMOs, and it will not happen. That leaves only one viable option: some minimal reasonable Federal consumer health protections for patients enrolled in ERISA plans.

Now there are many proposals on the table, including the Patient Access to Responsible Care Act, the Patients' Bill of Rights, the 18-point agenda released by Kaiser HIP and AARP. Whether we enact one of these options or some other yet to be drafted, Congress created the ERISA loophole and Congress should fix it.

Now, defenders of the status quo sometimes say that making plans subject to increased State or Federal regulations is not the answer. They insist that like any other consumer good, managed care will respond to the demands of the market. I would note that other industries are liable for their acts of misconduct.

So the shield from liability provided by ERISA by itself distorts the health care market. It differs from a traditional market in other ways as well. For example, the person consuming health care is generally not paying for it. Most Americans get their health care through their employer because the primary customer, the one paying the bills, is the employer. HMOs have to satisfy their needs before they satisfy the needs of their patients. And the employer's focus on the cost of the plan may draw the HMO's attention away from the employee's desire for a decent health plan.

As Stan Evans noted in Human Events, many HMOs operate on a capitated basis. This means that plans are paid a flat monthly fee for taking care of you. This translates to the less they spend on medical services, the more profit they make.

Now, how many markets function on the premise of succeeding by giving consumers less of what they want?

Take a look at this cartoon which illustrates perfectly the problem of health plans focusing on the bottom line. The patient is in traction. This is the HMO bedside manner. And the doctor standing next to him says, "After consulting my colleagues in accounting we have concluded you are well enough. Now go home."

Are HMOs paying attention to their patients' health or to their stockholders' portfolios?

Stan Evans again hit the nail on the head when he noted:

> Paid a fixed amount of money per patient regardless of the care delivered, HMOs have a powerful motive to deliver a minimum of treatment. Care denial, pushing people out of hospitals as fast as possible, blocking access to specialists and the like are not mistakes or aberrations. They stem directly from the nature of the setup in which HMOs make more money by delivering less care, thus pitting the financial interests of the provider against the medical interests of the patient.

His comment raises an important issue. Presented with tragedies like those of the Baumans or Mrs. DeMeurers, managed care defenders argue those are just anecdotes. What Mr. Evans points out is that cases like these are not mistakes or aberrations or anecdotes. They are exactly the outcomes we would expect in a system that rewards those who undertreat patients.

Finally, markets only function when consumers have real choices. Dissatisfied consumers have limited options. Most employers offer employees very few health plans. For many, the choice of their health plan is simple: Take it or leave it. Freedom in the health insurance market now means quitting your job if you do not like your HMO. There is not a free market when consumers cannot switch to a different health plan.

But even if we were to put aside all these arguments and assume that health insurance was a free market, there is still a need for legislation to guard patients from abuses. The notion of consumer protections is consistent and supportive in our concept of free markets. In his book, Everything for Sale, Robert Kuttner points out the problems of imperfect markets. He says:

> Industries such as telecommunications, electric power and health care retain public purposes that free market forces cannot achieve. For example, as a society we remain committed to universal access for certain goods. Left to its own devices the free market might decide that delivering electricity and phone service to rural areas and poor city neighborhoods is just not profitable, just as the private market brands cancer patients as "uninsurable."

Think for a moment about buying a car. Federal laws ensure that cars have horns and brakes and headlights. Yet despite these minimum standards, we do not have a nationalized auto industry. Instead, consumers have lots of choices. But they know that whatever car they buy will meet certain minimum safety standards. You do not buy safety a la carte.

The same notion of basic protections and standards should apply to health plans. Consumer protections will not lead to socialized medicine any more than requiring seat belts has led to a nationalized auto industry. In a free market, these minimum standards set a level playing field that allows competition to flourish.

Critics of regulating managed care also complain that new regulations will drive up the costs of health insurance. In criticizing the Patient Access to Responsible Care Act, they cite a study showing that certain provisions could increase health insurance premiums from 3 to 90 percent. Three to 90 percent. I mean, that is a joke. Such a wide range is meaningless. It must be an accountant's way of saying I do not know.

Other studies have said that costs may go up slightly, but nothing near the doomsday figures suggested by opponents of this legislation. A study by the accounting firm Muse and Associates shows that premiums will increase between seven-tenths of 1 percent and 2.6 percent if the Patient Access to Responsible Care Act is enacted.

And do not let the HMOs tell you that the rising premiums we are seeing this year are the result of Federal legislation. HMOs have been charging below cost premiums for a long time. As a result, we are now seeing premium increases long before passage of any Federal consumer protection legislation.

And keep in mind also the shareholder's philosophy of making money can come into conflict with the patient's philosophy of wanting good medical care. To save money, many plans have nonphysician reviewers to determine if callers requesting approval for care really need it. Using medical care cookbooks, they walk patients through their symptoms and then reach a medical conclusion.

These cookbooks do not have a recipe for every circumstance. Like the woman who called to complain about pain caused by the cast on her wrist. The telephone triage worker asked the woman to press down on her fingernail to see how long it took for the color to return. Unfortunately, the patient had polish on her nails.

How far can this go? Like this cartoon shows, pretty soon we could all be logging on to the Internet and using the mouse as a stethoscope.

This trend should trouble every one of us. Medicine is part science, part art. Computer operators cannot consider the subtleties of a patient's condition. Sometimes you can know the answer by reading a chart, but sometimes doctors reach their judgments by a sixth sense that this patient really is sick. There are certain things that computers just cannot comprehend.

Now doctors are expected to be professional, to adhere to standards and to undergo peer review. Most of all, they are expected to serve as advocates for their patients' needs, not to be government or insurance apologists. It is in

the interests of our citizens that their doctor fights for them and not be "the company doc."

Like a majority of my colleagues, I am a cosponsor of H.R. 1415, the Patient Access to Responsible Care Act, otherwise known as PARCA. In an attempt to derail this legislation, the managed care community has made a number of false statements about this bill. For example, they repeatedly state that PARCA would force health plans to contract with any provider who wanted to join its network. That is clearly a false statement. In two separate places in the bill, it states that it should not be considered an "any willing provider" bill.

PARCA simply includes a provider nondiscrimination provision similar to what was enacted in Medicare last year. Provider nondiscrimination and "any willing provider" are no more the same than equal opportunity and affirmative action.

Similarly, some opponents have suggested that the bill would force health insurance to be offered on a guaranteed issue or a community rated basis. This is a nonissue. Congressman NORWOOD and I oppose community rating and guaranteed issue and will not support any bill coming to the floor that would result in community rating or guaranteed issue.

□ 2115

Our goals should be passage of comprehensive patient protection legislation. I am committed to seeing legislation enacted before the close of the 105th Congress. I am open to working with all interested Members, Republican, and Democrat, to develop a bipartisan patient protection bill.

In the meantime, H.R. 586, the Patient Right to Know Act, which would ban gag rules, should be brought to the floor for a vote.

Mr. Speaker, just last week, a pediatrician told me about a 6-year-old child who had nearly drowned. The child was brought to the hospital and placed on a ventilator. The child's condition was serious. It did not appear that he would survive.

As the doctors and the family prayed for signs that he would live, the hospital got a call from the boy's insurance company. Home ventilation, explained the HMO reviewer, is cheaper than in-patient care. I was wondering if you had thought about sending the boy home.

Or consider the death of Joyce Ching, a 34-year-old mother from Fremont, California. Mrs. Ching waited nearly 3 months for an HMO referral to a specialist despite her continued rectal bleeding and severe pain. She was 35 years old when she died from a delay in the diagnosis of her colon cancer.

Joyce Ching, Christy DeMeurers, Michelina Baumann, Dr. Peeno's patient, Mr. Speaker, these are not just anecdotes. These are real people who are victims of HMOs.

Let us fix this problem. The people we serve are demanding it. Let us act now to pass meaningful patient protections. Lives, Mr. Speaker, are in the balance.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILLMOR (at the request of Mr. ARMEY) for today on account of emergency dental work.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2:00 p.m. on account of personal reasons.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 4:30 p.m. on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

The following Members (at the request of Mr. NETHERCUTT) to revise and extend their remarks and include extraneous material:

Mr. COBURN, for 5 minutes, today.

Mr. HULSHOF, for 5 minutes, on March 31.

Mr. HUNTER, for 5 minutes, today.

Mr. PETERSON of Pennsylvania.

Mr. BARR of Georgia, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, on March 27.

Mr. MICA, for 5 minutes, today.

The following Member (at her own request) to revise and extend his remarks and include extraneous material:

Mrs. CLAYTON for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. PALLONE) and to include extraneous matter:

Mr. KIND.
Mr. ALLEN.
Ms. SANCHEZ.
Mr. VISCLOSKY.
Ms. VELÁZQUEZ.
Mr. FORD.
Mrs. MEEK of Florida.
Mr. KLECZKA.
Ms. MCCARTHY of Missouri.
Mr. DAVIS of Illinois.
Mr. STARK.
Mr. BORSKI.
Mr. TORRES.
Mr. VENTO.
Mr. FILNER.

The following Members (at the request of Mr. NETHERCUTT) and to include extraneous matter:

Mr. ROGERS.
Mr. DAVIS of Virginia.
Mrs. JOHNSON of Connecticut.
Mr. HORN.
Ms. ROS-LEHTINEN.
Mr. BILIRAKIS.
Mr. WICKER.
Mr. CALVERT.
Mr. EHRLICH.
Mr. WALSH.
Mr. PAPPAS.
Mr. SMITH of New Jersey.

The following Members (at the request of Mr. GANSKE) and to include extraneous matter:

Mr. PAPPAS.
Mr. ALLEN.

ADJOURNMENT

Mr. GANSKE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Friday, March 27, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

8235. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule— Specialty Crops; Import Regulations; Extension of Reporting Period for Peanuts Imported Under 1997 Import Quotas [Docket No. FV97-999-1 FIR] received March 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8236. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerance [OPP-300628; FRL-5778-3] (RIN: 2070-AB78) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8237. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerance [OPP-300625; FRL-5776-5] (RIN: 2070-AB78) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8238. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Colorado; Correction [FRL -5977-5] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8239. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio;

Kentucky [OH107a; KY101-9809a; FRL-5985-9] received March 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8240. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Ohio [OH103-1a; FRL-5978-6] received March 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8241. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Department's final rule—Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Additional Update of Post-Rebuild Emission Levels in 1998 [FRL-5986-2] (RIN: 2060-AH45) received March 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8242. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Kuwait for defense articles and services (Transmittal No. 98-29), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8243. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 98-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8244. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98-32), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8245. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Australia (Transmittal No. DTC-21-98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8246. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

8247. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Gulf of Alaska [Docket No. 971208297-8054-02; I.D. 031098C] received March 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8248. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Inshore Component Pollock in the Aleutian Islands Subarea [Docket No. 971208298-8055-02; I.D. 031398A] received March 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8249. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 and 0070 Series Airplanes [Docket No. 96-NM-269-AD; Amendment 39-10310; AD 98-03-18] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8250. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 050 Series Airplanes [Docket No. 97-NM-261-AD; Amendment 39-10300; AD 98-03-08] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8251. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model HS 748 Series Airplanes [Docket No. 97-NM-219-AD; Amendment 39-10309; AD 98-03-17] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Luftfahrt GmbH Models 228-100, 228-101, 228-200, and 228-201 Airplanes [Docket No. 97-CE-124-AD; Amendment 39-10391; AD 98-06-13] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8253. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0070 and Mark 0100 Series Airplanes [Docket No. 97-NM-245-AD; Amendment 39-10396; AD 98-06-18] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere Falcon 900 Series Airplanes [Docket No. 97-NM-193-AD; Amendment 39-10395; AD 98-06-17] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8255. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes [Docket No. 95-NM-38-AD; Amendment 39-10393; AD 98-06-15] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN-235 Series Airplanes [Docket No. 97-NM-162-AD; Amendment 39-10392; AD 98-06-14] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328-100 Series Airplanes [Docket No. 96-NM-114-AD; Amendment 39-10394; AD 98-06-16] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145 Series Airplanes [Airspace Docket No. 98-NM-64-AD; Amendment 39-10397; AD 98-06-19] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; GKN Westland Helicopters Ltd., 30 Series Helicopters [Docket No. 97-SW-26-AD; Amendment 39-10383; AD 98-06-06] (RIN: 2120-AA64) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Eastland, TX [Airspace Docket No. 98-ASW-20] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Gallup, NM [Airspace Docket No. 98-ASW-19] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Wrangell, AK, and Petersburg, AK [Airspace Docket No. 97-AAL-11] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Realignment of Colored Federal Airway; AK [Airspace Docket No. 97-AAL-10] (RIN: 2120-AA66) received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8264. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wagoner, OK [Airspace Docket No. 98-ASW-03] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8265. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pawnee, OK [Airspace Docket No. 98-ASW-02] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8266. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Coalgate, OK [Airspace Docket No. 98-ASW-01] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8267. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Miami, OK [Airspace Docket No. 98-ASW-11] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8268. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Idabel, OK [Airspace Docket No. 98-ASW-09] received March 19, 1998,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8269. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Henryetta, OK [Airspace Docket No. 98–ASW–08] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8270. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; McAlester, OK [Airspace Docket No. 98–ASW–10] received March 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8271. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Revision to the NASA FAR Supplement Coverage on Alternative Dispute Resolution [48 CFR Part 1833] received March 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8272. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Contract Financing [48 CFR Parts 1832 and 1852] received March 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SPENCE: Committee on National Security, H.R. 2786. A bill to authorize additional appropriations for the Department of Defense for ballistic missile defenses and other measures to counter the emerging threat posed to the United States and its allies in the Middle East and Persian Gulf region by the development and deployment of ballistic missiles by Iran; with amendments (Rept. 105–468 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, the Committee on International Relations discharged from further consideration. H.R. 2786 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X, the following action was taken by the Speaker:

H.R. 2786. Referral to the Committee on International Relations extended for a period ending not later than March 26, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ARCHER:

H.R. 3558. A bill to provide that the exception for certain real estate investment trusts from the treatment of stapled entities shall apply only to existing property, and for other purposes; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. INGLIS of South Carolina, Mr. HUTCHINSON, Mr. PEASE, Mr. GRAHAM, Mr. CONYERS, Mr. BOUCHER, and Mr. DELAHUNT):

H.R. 3559. A bill to modify the application of the antitrust laws with respect to obtaining video programming for multichannel distribution, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Michigan:

H.R. 3560. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for a pilot program for personalized retirement security through personal retirement savings accounts to allow for more control by individuals over their Social Security retirement income, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself, Mr. SHAYS, Mr. CLAY, Mr. ROEMER, Mr. WALSH, Mr. FARR of California, Mr. NEAL of Massachusetts, Mr. DOOLEY of California, Mrs. MORELLA, Mr. QUINN, Mr. BARRETT of Wisconsin, Mr. SANDLIN, Mr. MILLER of California, Mr. MENENDEZ, Mr. KENNEDY of Massachusetts, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. DINGELL, Mr. FROST, Mr. HORN, Mr. UNDERWOOD, Mr. MALONEY of Connecticut, Mr. HINCHEY, Mr. MURTHA, Mrs. KENNELLY of Connecticut, Mr. BORSKI, Mr. FAZIO of California, Mr. MARTINEZ, Mr. BALDACCI, Mr. FATTAH, Ms. WOOLSEY, Mr. KIND of Wisconsin, Ms. SANCHEZ, Ms. JACKSON-LEE, Mr. MORAN of Virginia, Mr. PETERSON of Minnesota, Mr. VENTO, Mr. FRANK of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. LEACH, Mr. ADAM SMITH of Washington, Mr. SABO, Mrs. LOWEY, Mr. SAWYER, Mr. DEFAZIO, Mr. ACKERMAN, Mr. HOUGHTON, Mr. HALL of Ohio, Mr. SANDERS, Mr. LANTOS, Mr. KLINK, and Mr. SCOTT):

H.R. 3561. A bill to extend for five years the authorization of appropriations for the programs under the National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3562. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to C corporations which have substantial employee ownership and to encourage stock ownership by employees by excluding from gross income stock paid as compensation for services, and for other purposes; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, and Mr. UPTON):

H.R. 3563. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in biomedical research conducted through the National Institutes of Health; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky:

H.R. 3564. A bill to exclude the receipts and disbursements of the Abandoned Mine Reclamation Fund from the budget of the United States Government, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOLLUM (for himself, Mr. SCHUMER, Mr. BUYER, Mr. CHABOT, and Mr. GEKAS):

H.R. 3565. A bill to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

By Mr. PAPPAS:

H.R. 3566. A bill to establish a pilot program to facilitate the protection and preservation of remaining open space and farmland in the mid-Atlantic States; to the Committee on Resources.

By Mr. PAPPAS (for himself, Mr. SMITH of New Jersey, Mr. SAXTON, and Mr. COYNE):

H.R. 3567. A bill to amend title XVIII of the Social Security Act to provide for equitable payments to home health agencies under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. ROUKEMA (for herself, Mr. DEFAZIO, Mr. WISE, Mrs. MORELLA, Mr. SHAYS, and Mr. STRICKLAND):

H.R. 3568. A bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit group and individual health plans from imposing treatment limitations or financial requirements on the coverage of mental health benefits and on the coverage of substance abuse and chemical dependency benefits if similar limitations or requirements are not imposed on medical and surgical benefits; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Oregon:

H.R. 3569. A bill to transfer administrative jurisdiction over certain parcels of public domain land in Lake County, Oregon, to facilitate management of the land, and for other purposes; to the Committee on Resources.

By Mr. STARK (for himself, Mr. LEACH, Mr. WAXMAN, Mr. TOWNS, Mr. HILLIARD, Mr. FROST, and Mr. TORRES):

H.R. 3570. A bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the Medicare skilled nursing facility prospective payment system; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. SCOTT, Mr. GOODE, Mr. BOUCHER, Mr. SISISKY, Mr. BATEMAN, Mr. WOLF, Mr. BLILEY, and Mr. GOODLATTE):

H. Con. Res. 251. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to commemorate the life of George Washington and his contributions to the Nation; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mr. BILIRAKIS, Mr. ANDREWS, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. BROWN of Ohio, Mr. CUNNINGHAM, Mr. DOYLE, Mr. ENGEL, Mr. FILNER, Ms. FURSE, Mr. HORN, Mrs. KELLY, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. KLINK, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mr. MENENDEZ, Mr. PALLONE, Mr. PAPPAS, Mr. PASCRELL, Mr. PAYNE, Mr. PORTER, Mr. SHERMAN, Mr. TIERNEY, Mr. VISCLOSKY, Mr. HINCHEY, Ms. ROS-LEHTINEN, and Mr. FRANKS of New Jersey):

H. Con. Res. 252. Concurrent resolution relating to a United States initiative to help resolve the situation in Cyprus; to the Committee on International Relations.

By Mr. REYES:

H. Con. Res. 253. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the 150th anniversary of the presence of Fort Bliss in the El Paso, Texas, area; to the Committee on Government Reform and Oversight.

By Mr. GILMAN (for himself, Mr. BURTON of Indiana, Mr. SOUDER, Mr. MANTON, Mr. BALLENGER, and Mr. HASTERT):

H. Res. 398. A resolution urging the President to expeditiously procure and provide three UH-60L Blackhawk utility helicopters to the Colombian National Police solely for the purpose of assisting the Colombian National Police to perform their responsibilities to reduce and eliminate the production of illicit drugs in Colombia and the trafficking of such illicit drugs, including the trafficking of drugs such as heroin and cocaine to the United States; to the Committee on International Relations.

By Mr. BASS (for himself, Mr. GOODLING, Mr. GREENWOOD, Mr. RIGGS, Mr. BALLENGER, Mr. GRAHAM, Mr. BALDACCI, Mr. BATEMAN, Mr. BERRY, Mr. BILBRAY, Mr. BLUNT, Mr. BOEHLERT, Mr. CHAMBLISS, Mr. ENGLISH of Pennsylvania, Mrs. FOWLER, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. GANSKE, Mr. GILMAN, Mr. HILLIARD, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mr. NETHERCUTT, Mr. SNOWBARGER, and Mr. SUNUNU):

H. Res. 399. A resolution urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsor were added to public bills and resolutions as follows:

H.R. 26: Mr. WATT of North Carolina.

H.R. 44: Mr. SMITH of New Jersey, Mr. LEWIS of Kentucky, Mr. DEUTSCH, and Mr. DIAZ-BALART.

H.R. 65: Mr. DEUTSCH and Mr. WELDON of Pennsylvania.

H.R. 135: Mr. MEEKS of New York.

H.R. 192: Mr. CLYBURN.

H.R. 303: Mr. THUNE.

H.R. 372: Mr. KILDEE and Mrs. LOWEY.

H.R. 414: Mr. CLYBURN.

H.R. 457: Mr. GILLMOR.

H.R. 530: Mr. UPTON, Mr. GALLEGLY, Mr. SMITH of Michigan, Mr. SNOWBARGER, Mr. TANNER, Mr. COBLE, Mr. CHRISTENSEN, Mr. WELLER, Mr. WATKINS, Mr. PETRI, Mr. METCALF, Mr. DUNCAN, Mr. TIAHRT, Mr. WELDON of Pennsylvania, Mr. BERRY, and Mr. BLILEY.

H.R. 536: Ms. WOOLSEY.

H.R. 633: Mr. TRAFICANT.

H.R. 699: Mr. THUNE and Mrs. FOWLER.

H.R. 981: Mr. KILDEE, Mr. CONYERS, and Mr. JACKSON.

H.R. 1023: Ms. KAPTUR.

H.R. 1032: Mrs. TAUSCHER.

H.R. 1061: Mrs. JOHNSON of Connecticut.

H.R. 1151: Mr. HASTINGS of Florida, Mr. HILL, Mr. PAUL, Mr. GRAHAM, Mr. PRICE of North Carolina, and Mr. PICKETT.

H.R. 1176: Mr. CLYBURN.

H.R. 1231: Mr. HILLIARD and Mr. SANDLIN.

H.R. 1356: Mr. STEARNS and Mr. BARR of Georgia.

H.R. 1415: Mrs. CLAYTON.

H.R. 1505: Mr. SNYDER and Mr. FILNER.

H.R. 1525: Mr. CLYBURN and Mr. GANSKE.

H.R. 1577: Mr. SUNUNU.

H.R. 1737: Mr. JACKSON and Mr. SHAW.

H.R. 1951: Mr. STOKES, Mr. BECERRA, Mr. MATSUI, Mrs. CLAYTON, and Mr. FILNER.

H.R. 2009: Mr. LOBIONDO and Mr. STARK.

H.R. 2020: Mr. PETERSON of Minnesota, Mr. HAYWORTH, Mr. LEWIS of Georgia, and Mr. ADAM SMITH of Washington.

H.R. 2072: Mr. WATKINS.

H.R. 2094: Mrs. TAUSCHER and Mr. MALONEY of Connecticut.

H.R. 2103: Mr. SANDLIN.

H.R. 2120: Ms. NORTON.

H.R. 2125: Mr. FRELINGHUYSEN.

H.R. 2359: Mr. SHERMAN.

H.R. 2409: Mr. WAXMAN, Mr. MILLER of California, and Mr. ABERCROMBIE.

H.R. 2488: Mr. SESSIONS, Ms. LOFGREN, and Ms. CHRISTIAN-GREEN.

H.R. 2497: Mr. SUNUNU.

H.R. 2568: Mrs. CLAYTON and Mr. BOEHNER.

H.R. 2598: Mr. SESSIONS, Mr. SHIMKUS, and Mr. ADERHOLT.

H.R. 2670: Mr. SHAYS.

H.R. 2708: Mr. MORAN of Kansas.

H.R. 2723: Mr. GOODLING.

H.R. 2754: Mr. TOWNS.

H.R. 2804: Mr. WATT of North Carolina and Mr. HILLIARD.

H.R. 2908: Mr. DOOLEY of California, Mr. SPENCE, Mr. ADERHOLT, Mr. EDWARDS, Mr. FRELINGHUYSEN, Mr. HAYWORTH, Mr. BOSWELL, Mr. CUNNINGHAM, Mr. JENKINS, Mr. BALDACCI, and Ms. DANNER.

H.R. 2912: Mr. CAMP and Mr. OLVER.

H.R. 2921: Mr. HULSHOF, Mr. GANSKE, Mr. KLUG, and Mr. MCINTYRE.

H.R. 2923: Mr. KLUG, Mr. PASTOR, Mr. MILLER of California, Mr. ACKERMAN, Mr. BUNNING of Kentucky, Mr. SHAW, and Mr. GEJDENSON.

H.R. 2942: Mr. MICA and Mr. DIAZ-BALART.

H.R. 2963 Mrs. CLAYTON, Mr. ALLEN, Mr. MEEHAN, Mr. DOYLE, Ms. CARSON, Mr. DEFAZIO, Mr. WAXMAN, Mr. GEJDENSON, and Mr. PALLONE.

H.R. 3008: Mr. FILNER and Mrs. THURMAN.

H.R. 3048: Mr. CASTLE.

H.R. 3126: Mr. RANGEL.

H.R. 3156: Mr. DICKS, Mr. POSHARD, Mr. BARCIA of Michigan, Mr. BLILEY, Mr. STUPAK, Mr. COX of California, Mr. RAHALL, Ms. PRYCE of Ohio, Mr. GORDON, Mr. PASTOR, Mr. EHLERS, Mr. GONZALEZ, Mr. KLINK, Mr. BATEMAN, Mr. WHITFIELD, Mr. HEFNER, Mr. COOKSEY, Mr. BERRY, and Mr. SKELTON.

H.R. 3205: Mrs. MINK of Hawaii.

H.R. 3217: Mr. MCNULTY.

H.R. 3236: Mr. BOEHNER, Mr. SALMON, Mr. BLAGOJEVICH, Mr. WAXMAN, Mr. GREEN, Ms. FURSE, Mr. CLYBURN, Mr. KNOLLENBERG, Mr. BORSKI, and Mr. BILBRAY.

H.R. 3241: Mr. SALMON.

H.R. 3251: Mr. COYNE, Mr. FROST, Mr. FRANK of Massachusetts, Ms. LOFGREN, Mr. SANDERS, Mr. BALDACCI, and Mr. ENGEL.

H.R. 3265: Mr. ETHERIDGE.

H.R. 3267: Mr. ENGLISH of Pennsylvania, Mr. WOLF, Mr. EWING, Mr. JENKINS, Mr. FALEOMAVAEGA, and Mr. KING of New York.

H.R. 3269: Mr. KENNEDY of Massachusetts and Mr. TORRES.

H.R. 3270: Mr. ENGLISH of Pennsylvania.

H.R. 3284: Mr. CLYBURN.

H.R. 3298: Ms. WOOLSEY and Mr. LEWIS of Georgia.

H.R. 3313: Mr. DOOLITTLE.

H.R. 3320: Mr. MEEKS of New York, Mrs. CLAYTON, Mr. MENENDEZ, Mr. FATTAH, Mr. CLAY, Mr. CUMMINGS, Mr. TORRES, Mr. JACKSON, Mr. MCINTYRE, Mr. FRANK of Massachusetts, Mr. ALLEN, Mr. BALDACCI, Ms. SLAUGHTER, Mr. MARTINEZ, and Mr. BARRETT of Wisconsin.

H.R. 3331: Mr. DUNCAN.

H.R. 3334: Mr. TAUZIN, Mr. GIBBONS, and Mr. COOKSEY.

H.R. 3342: Mrs. TAUSCHER, Mr. METCALF, Mr. WEXLER, Mr. BLUMENAUER, Ms. SLAUGHTER, and Mr. LAMPSON.

H.R. 3396: Mr. MICA, Mr. CUNNINGHAM, Mr. PICKETT, and Mr. KNOLLENBERG.

H.R. 3400: Mr. FALEOMAVAEGA and Mr. TORRES.

H.R. 3511: Ms. DUNN of Washington.

H.R. 3523: Ms. BROWN of Florida, Mr. MEEHAN, Mr. COSTELLO, Mr. FORBES, Ms. ROS-LEHTINEN, Mr. SHIMKUS, Mr. ENGLISH of Pennsylvania, Mr. RILEY, Mr. SKEEN, Mr. BONILLA, and Mr. PALLONE.

H.R. 3530: Mr. TURNER.

H.R. 3538: Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. OLVER, Mr. FILNER, and Mr. FRANK of Massachusetts.

H.R. 3552: Mr. ISTOOK, Mrs. MYRICK, and Mr. ENGLISH of Pennsylvania.

H.R. 3555: Ms. NORTON.

H.R. 3557: Mr. BOB SCHAFFER.

H.J. Res. 108: Mr. DUNCAN.

H.J. Res. 111: Mr. BRYANT.

H. Con. Res. 52: Mr. SMITH of Texas and Mr. BAESLER.

H. Con. Res. 162: Mr. TOWNS.

H. Con. Res. 203: Mr. GEJDENSON.

H. Con. Res. 210: Mr. PETERSON of Minnesota.

H. Con. Res. 212: Mr. COMBEST, Mr. BARR of Georgia, Mr. CALVERT, Mr. EDWARDS, and Mr. WICKER.

H. Con. Res. 248: Mr. GREEN.

H. Res. 247: Mr. ADAM SMITH of Washington.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 981: Mr. BALLENGER.

H.R. 2021: Mr. NETHERCUTT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

OFFERED BY: MR. DREIER

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 2: Strike everything after the enacting clause and insert the following new text:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Services Competitive Enhancement Act".

TITLE I—FINANCIAL SERVICES COMPETITIVE ENHANCEMENT

SEC. 101. ANTI-AFFILIATION PROVISIONS OF "GLASS-STEAGALL ACT" REPEALED.

(a) SECTION 20 REPEALED.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is repealed.

(b) SECTION 32 REPEALED.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is repealed.

SEC. 102. FINANCIAL ACTIVITIES.

Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

"(8) shares of any company the activities of which the Board, in accordance with subsection (l), has determined (by regulation or order) to be financial in nature or incidental to such financial activities and—

"(A) effective 90 days after the date of the enactment of the Financial Services Competitive Equality Act, it shall be financial in nature to provide insurance as principal, agent, or broker in any State, in full compliance with the laws and regulations of such State that uniformly apply to each type of insurance license or authorization in such State, except that in no event shall the company, the bank holding company, or any affiliate of the company or bank holding company be subject to any State law or regulation that restricts a bank from having an affiliate, agent, or employee in such State licensed to provide insurance as principal, agent, or broker; and

"(B) the Board shall prescribe regulations concerning insurance affiliations that provide equivalent treatment for all stock and mutual insurance companies that control or are otherwise affiliated with a bank and fully accommodate and are consistent with State law;".

SEC. 103. INSURANCE COMPANY INVESTMENTS.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(k) INSURANCE COMPANY INVESTMENTS.—Notwithstanding subsection (a), a bank holding company may directly or indirectly acquire or control, whether as principal, on behalf of 1 or more entities (including any subsidiary of the holding company which is not a depository institution or subsidiary of a depository institution) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(1) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

"(2) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance);

"(3) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

"(4) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of paragraph (3).".

SEC. 104. FINANCIAL IN NATURE.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by inserting after subsection (k) (as added by section 4 of this Act) the following new subsection:

"(l) ENGAGING IN ACTIVITIES FINANCIAL IN NATURE.—

"(1) IN GENERAL.—Notwithstanding section 4(a), a bank holding company may engage in any activity which the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

"(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

"(A) the purposes of this Act and the Financial Services Competitive Enhancement Act;

"(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

"(C) changes or reasonably expected changes in the technology for delivering financial services; and

"(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

"(i) compete effectively with any company seeking to provide financial services in the United States;

"(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

"(iii) offer customers any available or emerging technological means for using financial services.

"(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

"(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

"(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

"(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

"(E) Underwriting, dealing in, or making a market in securities.

"(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Competitive Enhancement Act, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

"(G) Engaging, in the United States, in any activity that—

"(i) a bank holding company may engage in outside the United States; and

"(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Competitive Enhancement Act) to be usual in connection with the transaction of banking or other financial operations abroad.

"(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(iii) such shares, assets, or ownership interests, are held for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

"(4) ACTIONS REQUIRED.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

"(B) Providing any device or other instrumentality for transferring money or other financial assets;

"(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

"(5) POST CONSUMMATION NOTIFICATION.—

"(A) IN GENERAL.—A bank holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

"(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association, a bank holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board."

SEC. 105. STREAMLINING BANK HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

"(c) REPORTS AND EXAMINATIONS.—

"(1) REPORTS.—

"(A) IN GENERAL.—The Board from time to time may require any bank holding company

and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) compliance by the company or subsidiary with applicable provisions of this Act.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

"(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or its subsidiary depository institution or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

"(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

"(i) a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

"(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—

"(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

"(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

"(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

"(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

"(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

"(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

"(ii) inform the Board of—

"(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

"(II) the systems for monitoring and controlling such risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

"(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

"(i) the bank holding company; and

"(ii) any subsidiary of the holding company that, because of—

"(I) the size, condition, or activities of the subsidiary; or

"(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

"(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

"(i) any registered broker or dealer or registered investment adviser by or on behalf of the Securities and Exchange Commission;

"(ii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

"(iii) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

"(3) CAPITAL.—

"(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a bank holding company that is not a depository institution and—

"(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

"(ii) is registered as an investment adviser under the Investment Advisers Act of 1940.

"(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

"(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

"(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

"(ii) approve or disapprove applications or transactions under section 3;

"(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

"(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

"(C) AGENCY ORDERS.—Section 9 (of this Act) and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

"(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

"(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies; and

"(B) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.".

SEC. 106. AMENDMENT TO DIVESTITURE PROCEDURES.

Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking "Financial Institutions Supervisory Act of 1966, order" and inserting "Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

"(A) order"; and

(2) by striking "shareholders of the bank holding company. Such distribution" and inserting "shareholders of the bank holding company; or

"(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the bank's primary

supervisor, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company The distribution referred to in subparagraph (A)''.

SEC. 107. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker or dealer described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in such paragraph, the Board may order the bank holding company to divest the insured depository institution within 180 days of receiving notice or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.''.

SEC. 108. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 8 of this Act) the following new subsection:

''(h) PRUDENTIAL SAFEGUARDS.—

''(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Competitive Enhancement Act, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

''(2) STANDARDS.—The Board may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

''(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

''(B) Enhance the financial stability of bank holding companies.

''(C) Avoid conflicts of interest or other abuses.

''(D) Enhance the privacy of customers of depository institutions.

''(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

''(3) REVIEW.—The Board shall regularly—

''(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

''(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.''.

SEC. 109. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—The Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the meaning given to such term in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company which is registered with the Commission under the Investment Company Act of 1940.

SEC. 110. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—

''(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system.

''(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a bank holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

''(1) a broker or dealer registered under the Securities Exchange Act of 1934;

''(2) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(3) an investment company registered under the Investment Company Act of 1940;

"(4) an insurance company or an insurance agency subject to supervision by a State insurance commission, agency, or similar authority; or

"(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.".